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Page 167

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4) IN RE: DEALER MANAGEMENT) MDL NO. 2817
5) SYSTEMS ANTITRUST))
6) LITIGATION,) CASE NO. 18 C 864
7))

8 ORAL AND VIDEOTAPED DEPOSITION OF ROBERT BROCKMAN, VOL 2
9 Highly Confidential - Attorneys' Eyes Only
10 January 17, 2019

11
12 ORAL AND VIDEOTAPED DEPOSITION OF ROBERT BROCKMAN,
13 VOLUME 2, produced as a witness at the instance of the
14 PLAINTIFF(S), and duly sworn, was taken in the
15 above-styled and numbered cause on the 17th day of
16 January, 2019, from 9:07 a.m. to 4:43 p.m., via
17 telephone, before Shauna L. Beach, RDR, CRR, CSR in and
18 for the State of Texas, reported by machine shorthand,
19 at the law offices of Gibbs & Bruns, LLP, 1100
20 Louisiana, Suite 5300, Houston Texas 77002, pursuant to
21 the Federal Rules of Civil Procedure and the provisions
22 stated on the record or attached hereto.
23
24
25

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<p>Page 168</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR THE WITNESS:</p> <p>3 AUNDREA K. GULLEY</p> <p>4 BRICE WILKINSON</p> <p>5 Gibbs & Bruns, LLP</p> <p>6 1100 Louisiana</p> <p>7 Suite 5300</p> <p>8 Houston, Texas 77002</p> <p>9 agulley@gibbsbruns.com</p> <p>10 bwilkinson@gibbsbruns.com</p> <p>11</p> <p>12 FOR AUTHENTICOM, COX AUTOMOTIVE AND IT'S NAMED PLAINTIFF</p> <p>13 SUBSIDIARIES, MDSC, AUTOLOOP AS A REPRESENTATIVE OF THE</p> <p>14 VENDOR CLASS:</p> <p>15</p> <p>16 MICHAEL N. NEMELKA</p> <p>17 JOSEPH LONG</p> <p>18 Kellogg Hansen Todd Figel & Frederick</p> <p>19 Sumner Square</p> <p>20 1615 M Street, N.W., Suite 400</p> <p>21 Washington, D.C. 20036</p> <p>22 mnemelka@kelloggghansen.com</p> <p>23 jlong@kelloggghansen.com</p> <p>24 FOR THE DEALERSHIP CLASS PLAINTIFFS:</p> <p>25 PEGGY J. WEDGWORTH</p> <p>ROBERT WALLNER (appearing telephonically)</p> <p>JOHN HUGHES</p> <p>Milberg Tadler Phillips Grossman, LLP</p> <p>One Pennsylvania Plaza</p> <p>19th Floor</p> <p>New York, New York 10119</p> <p>pwedgworth@milberg.com</p> <p>rwallner@milberg.com</p> <p>FOR CDK GLOBAL:</p> <p>MARK RYAN</p> <p>Mayer Brown</p> <p>1999 K Street, N.W.</p> <p>Washington, DC 20006-1101</p> <p>mryan@mayerbrown.com</p>	<p>Page 170</p> <p>1 INDEX</p> <p>2 PAGE</p> <p>3</p> <p>4 Appearances 176</p> <p>5</p> <p>6 ROBERT BROCKMAN</p> <p>7 Examination by Ms. Wedgworth 176</p> <p>8 Examination by Mr. Nemelka 289</p> <p>9 Examination by Ms. Gulley 300</p> <p>10 Further Examination by Mr. Nemelka 354</p> <p>11 Further Examination by Ms. Wedgworth 357</p> <p>12</p> <p>13 Signature and Changes 369</p> <p>14</p> <p>15 Reporter's Certificate 370</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 169</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR THE WITNESS:</p> <p>3 MICHAEL P.A. COHEN</p> <p>4 Sheppard Mullin</p> <p>5 2099 Pennsylvania Avenue</p> <p>6 Suite 100</p> <p>7 Washington, D.C. 20006-6801</p> <p>8 mcohen@sheppardmullin.com</p> <p>9</p> <p>10 ALSO PRESENT:</p> <p>11</p> <p>12 SCOTT CHERRY</p> <p>13 Vice President - General Counsel at The Reynolds</p> <p>14 and Reynolds Company</p> <p>15</p> <p>16 Ben Harwood, Videographer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 171</p> <p>1 EXHIBITS</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 274 Email chain ending with email to 318</p> <p>4 Robert Theron Brockman, II from Bob</p> <p>5 Brockman dated November 9, 2016</p> <p>6 REYMDL00263304</p> <p>7 Highly Confidential - Attorneys'</p> <p>8 Eyes Only</p> <p>9 Exhibit 275 Email chain ending with email to 321</p> <p>10 Christopher Rulon from Bob Brockman</p> <p>11 dated September 17, 2013</p> <p>12 REYMDL00611282 - REYMDL00611284</p> <p>13 Highly Confidential - Attorneys'</p> <p>14 Eyes Only</p> <p>15</p> <p>16 Exhibit 657 Email chain ending with email to 184</p> <p>17 Bob Brockman from Ronald Lamb dated</p> <p>18 September 2, 2015</p> <p>19 REYMDL00244021 - REYMDL00244025</p> <p>20 Highly Confidential - Attorneys'</p> <p>21 Eyes Only</p> <p>22 Exhibit 658 Email chain ending with email to 201</p> <p>23 Robert Schaefer from Bob Brockman</p> <p>24 dated April 30, 2015</p> <p>25 REYMDL00045348</p> <p>Highly Confidential - Attorneys'</p> <p>Eyes Only</p> <p>Exhibit 659 Email chain ending with email to 213</p> <p>Bob Brockman from Ron Workman dated</p> <p>December 24, 2015</p> <p>CDK-CID-00963942</p> <p>Confidential</p> <p>Highly Confidential</p> <p>Exhibit 660 Reynolds and Reynolds January 2016 221</p> <p>Financial Package</p> <p>REYMDL00719700 - REYMDL00719787</p> <p>Highly Confidential - Attorneys'</p> <p>Eyes Only</p> <p>Exhibit 661 Email chain ending with email to 229</p> <p>Bob Brockman from Robert Schaefer</p> <p>dated January 5, 2016</p> <p>REYMDL00045556</p> <p>Highly Confidential - Attorneys'Eyes Only</p>

2 (Pages 168 - 171)

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3 (Pages 172 - 175)

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<p style="text-align: right;">Page 176</p> <p>1 MS. GULLEY: Andi Gulley, from Gibbs & 2 Bruns, representing Mr. Brockman and the Reynolds and 3 Reynolds Company. 4 MR. WILKINSON: Brice Wilkinson, also with 5 Gibbs & Bruns. 6 MR. COHEN: Michael Cohen, with Sheppard 7 Mullin, representing the defendant, the Reynolds and 8 Reynolds Company and the witness, Mr. Brockman. 9 MR. RYAN: Mark Ryan, from Mayer Brown, on 10 behalf of CDK Global. 11 THE VIDEOGRAPHER: Will the court reporter 12 please swear in the witness and we may proceed. 13 ROBERT THERON BROCKMAN, 14 having been first duly sworn, testified as follows: 15 EXAMINATION 16 BY MS. WEDGWORTH: 17 Q. Good morning, Mr. Brockman. As we started 18 yesterday, I'll just ask you -- all of the rules we put 19 in place yesterday, are you okay with continuing those 20 same rules today? 21 A. Yes, ma'am. 22 Q. So if you answer a question, I'll assume you 23 understand the question. Is that fair? 24 A. Yes, ma'am. 25 Q. And if you don't understand, please, let me</p>	<p style="text-align: right;">Page 178</p> <p>1 customers. 2 Q. When a dealership -- do you call it "converts" 3 or "switches"? 4 A. We use either term. 5 Q. So when a dealership converts DMS, there are 6 risks, correct, to the dealership? 7 MS. GULLEY: Objection; form. 8 A. A risk? 9 Q. (By Ms. Wedgworth) Risk, yes. Risk in loss of 10 sales, loss of customers, loss of employees, are there 11 risks when a DMS switches -- when a dealership switches 12 DMS? 13 MS. GULLEY: Objection; form. 14 A. I don't know that I would characterize it as 15 risk. There's certain overhead that is involved, 16 because the dealership's employees have to learn new 17 software. And I'm sure you've been through situations 18 where you had to change from one software package to 19 another software package. 20 You know, you've got to learn how -- it's 21 kind of like I have a new iPhone, and I -- I've never 22 had iPhones before. I've always had Androids. And 23 it's, you know, quite different. And so therefore, 24 there's overhead. I wouldn't call that "risk." 25 Q. (By Ms. Wedgworth) Is it fair to say that in</p>
<p style="text-align: right;">Page 177</p> <p>1 know and I'll restate the question. And if you need to 2 take a break at any time, please, let me know. I'm 3 happy to take a break as long as there's a question not 4 pending. I'll ask that you answer the question before 5 we take a break, if that -- can you agree to that? 6 A. Yes, ma'am. 7 Q. Okay. I wanted to start today on a different 8 topic of converting dealerships. When they convert 9 DMSs, does Reynolds track all dealerships who convert 10 DMSs -- or switch DMSs? 11 MS. GULLEY: Form. 12 A. I'm sorry. I don't understand. 13 Q. (By Ms. Wedgworth) Well, when a dealership 14 switches, say, from a Reynolds DMS to a CDK DMS, does 15 Reynolds track that conversion? 16 MS. GULLEY: Form. 17 A. That's not -- we consider that a -- a lost 18 customer. The concept of conversion is not part of 19 anything that we keep track of. 20 Q. (By Ms. Wedgworth) So Reynolds -- 21 A. When you lose a customer, I mean, it's implied 22 that there's a -- obviously, there has to be a 23 conversion involved, I suppose, so we don't think about 24 it -- it in those terms. And therefore, I can't say 25 that -- that we track conversions. We track lost</p>	<p style="text-align: right;">Page 179</p> <p>1 the first year or two after a DMS conversion by a 2 dealership, there is employee turnover at the dealership 3 in nearly all cases? 4 MS. GULLEY: Objection; form. 5 A. I would not agree that that has anything to do 6 with conversions. Turnover in dealerships is 7 astronomical. For instance, in the sales department in 8 the dealership, 100 percent turnover a year is quite 9 common. It's not that high a percentage in other parts 10 of the dealership, but as an industry, the turnover by 11 -- by my standards is horrible. 12 Q. (By Ms. Wedgworth) And is some of that 13 turnover for some dealerships a factor of a DMS 14 conversion? 15 MS. GULLEY: Objection; form. 16 A. Ma'am, I -- I don't know that I can say that. 17 You know, certainly a conversion that -- that goes 18 poorly -- frankly, the principal reason for a conversion 19 going poorly is the people refuse to learn the new 20 software. 21 Q. (By Ms. Wedgworth) And that's a cost for the 22 dealership; correct? 23 MS. GULLEY: Form. 24 A. Certainly if the dealership personnel will not 25 learn the new software, which causes the conversion to</p>

4 (Pages 176 - 179)

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<p style="text-align: right;">Page 180</p> <p>1 not go as smoothly as it should, certainly that's a cost 2 to the dealership. 3 Q. (By Ms. Wedgworth) Is it fair to say that for 4 some dealerships, switching DMS can take years to 5 recover from? 6 MS. GULLEY: Objection; form. 7 A. I think that that would be not a fair 8 statement. There's certainly -- that has happened, you 9 know -- you know, several times in my experience in the 10 business, but it's not -- it does not generally happen. 11 Q. (By Ms. Wedgworth) Is it fair to say that 12 there is employee turnover after a dealership switches 13 DMS? 14 MS. GULLEY: Objection; form. 15 A. I personally don't believe that, any more than 16 usual, which is horrible. The turnover by itself, 17 absent anything, is -- is unsatisfactory, in my opinion. 18 Q. (By Ms. Wedgworth) Is it fair to say there's 19 customer disruption after a dealership switches DMS? 20 MS. GULLEY: Objection; form. 21 A. Again, I think the source of disruption 22 would -- would occur not because the conversion itself, 23 but because of the -- the poor attention that dealership 24 employees pay to learning the new system. It is -- it's 25 one of our -- our chief problems in the business.</p>	<p style="text-align: right;">Page 182</p> <p>1 you don't mean longer than two or three months? 2 MS. GULLEY: Objection; form. 3 A. That's correct, ma'am. 4 Q. (By Ms. Wedgworth) If a dealership changes 5 DMS, they may have to acquire new servers; correct? 6 A. That's correct. 7 Q. And they may have to acquire new printers; 8 correct? 9 A. Typically not new printers. Printers are 10 pretty much universal pieces of equipment and, 11 especially since everything is laser printers now, laser 12 printers are very standard. 13 Q. So it's not typical when you change DMS that 14 you would have to, as a dealer, acquire new printers? 15 A. That's correct. 16 Q. And are -- is there other equipment that 17 dealers would have to acquire when they change DMSs? 18 MR. RYAN: Object to the form. 19 A. No. PCs are, again, you know, very much 20 standardized, and whatever PCs they've got, work. I 21 personally think that it's very advantageous to acquire 22 a second monitor for users -- second monitors are \$200. 23 We don't even sell them. Efficiency goes way up when 24 you go from, you know, one monitor to two monitors. And 25 that happens a lot in our installations, but it's just</p>
<p style="text-align: right;">Page 181</p> <p>1 Q. (By Ms. Wedgworth) So when a dealership is 2 considering switching DMS, they have to consider whether 3 or not their employees can efficiently integrate into 4 the new system; is that correct? 5 MS. GULLEY: Objection; form. 6 A. That is a correct statement. 7 Q. (By Ms. Wedgworth) Is it fair to say that if a 8 dealership does choose to convert, that that conversion 9 cannot be done quickly? 10 MS. GULLEY: Objection; form. 11 A. No, I don't agree with that. The -- the 12 conversion process, you know, properly done, where the 13 dealership personnel do what they're supposed to do as 14 far as learning the new system, that -- that conversion 15 can go very quickly. And again, I'll repeat again, if 16 they're not diligent in learning the new software, 17 conversion process can drag on until they finally, you 18 know, give up and decide to accept the new system and to 19 learn it. 20 Q. (By Ms. Wedgworth) And when you say "drag on," 21 sometimes that can be up to two years; correct? 22 MS. GULLEY: Objection; form. 23 A. No, I think that would be more -- more -- more 24 on the line of two to three months. 25 Q. (By Ms. Wedgworth) So when you say "drag on,"</p>	<p style="text-align: right;">Page 183</p> <p>1 because we -- we -- you know, tell the dealer, look, if 2 you want to have 20 percent more productivity, give 3 people a second monitor. But that's not a requirement. 4 Q. (By Ms. Wedgworth) If a dealership changes 5 DMS, they also have to get their data transferred from 6 the old DMS to the new DMS; correct? 7 A. That's correct. 8 Q. And it can take months for the staff at a 9 dealership to get comfortable with that new DMS once the 10 data is transferred over; correct? 11 MS. GULLEY: Form. 12 A. Again, I -- I think that varies greatly by 13 individual. But in -- from a general statement, 14 dealership personnel don't stand up and cheer -- jump up 15 and down about having to learn a new system any more 16 than you would. It -- it's something that you -- you 17 got to concentrate on, you got to pay attention and you 18 got to do it. 19 Q. (By Ms. Wedgworth) It's a complicated process; 20 is that fair? 21 MS. GULLEY: Form. 22 A. It's not a complicated process. The complexity 23 isn't -- people just are sitting in a chair and doing 24 it. 25 Q. (By Ms. Wedgworth) Mr. Brockman, I'll show you</p>

5 (Pages 180 - 183)

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<p style="text-align: right;">Page 184</p> <p>1 what's been marked as Plaintiff's Exhibit 657. 2 (Exhibit 657 was marked for 3 identification.) 4 MS. WEDGWORTH: And for the record, it's a 5 document Bates-stamped REYMDL00244021 through 025. Have 6 you had a chance to review the document? 7 A. Yes, ma'am. 8 Q. (By Ms. Wedgworth) Is -- is this an email you 9 wrote to Mr. Lamb around September 1st, 2015? 10 A. Yes, ma'am. 11 Q. And in this email, did you try to be truthful 12 and accurate? 13 A. Yes, ma'am. 14 Q. So the attachment to the email is a letter 15 dated November 24, 2014, addressed to Mr. Rick Hendrick 16 and is signed by Ron Lamb. Do you remember reviewing 17 this letter? 18 A. Yes, ma'am. 19 Q. And is Mr. Hendrick an owner of the largest 20 automotive group -- I'm sorry -- the largest client of 21 Reynolds? 22 A. I'm not sure it's the largest client. It, for 23 sure, is the largest privately owned group in the 24 country. 25 Q. Are you aware of any client for Reynolds that's</p>	<p style="text-align: right;">Page 186</p> <p>1 MS. GULLEY: Objection; form. 2 A. Yes, ma'am. 3 Q. (By Ms. Wedgworth) And, in trying to keep the 4 business, Mr. Lamb sends this letter to Mr. Hendrick; is 5 that correct? 6 A. Yes, ma'am. I think it was primarily intended 7 for Mr. Brown. Mr. Hendrick, at that point in time, was 8 not actively involved in -- in this process. He was 9 the -- the titular head. 10 But as you may or may not be aware, he's 11 very involved in stock car racing and, at this point in 12 time, he was fully consumed in running the stock car 13 racing operation, not the dealership management 14 operation. Mr. Brown was in -- in charge of that. 15 Q. And Mr. Brown's title at Hendrick is -- do you 16 know? 17 A. He was president of the automotive group. 18 Q. And in trying to keep the business of the 19 Hendrick automotive group, Mr. Lamb writes this letter 20 to Mr. -- I'm sorry -- Mr. Lamb writes the letter to 21 Mr. Hendrick and Mr. Brown; correct? 22 A. Yes. 23 Q. And in this letter, on the first page, halfway 24 down the page, there are "Convert with Risks" where 25 Mr. Lamb writes, "Converting 95 dealerships and 29</p>
<p style="text-align: right;">Page 185</p> <p>1 larger than Hendrick? 2 A. I believe at that point in time, the Penske 3 organization is -- and still is, because they're the 4 second largest publicly owned group in the country. 5 Q. And if we look at your email at the 1st to 6 Mr. Lamb, you write, "Ron, the first half of this letter 7 is brilliant. I made just a slight addition." Do you 8 see that, at the email you wrote to Mr. Lamb? First 9 sentence? 10 "The first half of this letter is 11 brilliant. I made just a slight addition." Do you see 12 that? 13 A. I saw it. But now I'm trying to -- 14 Q. On the first page, right under the -- 15 A. Okay. Yes, I found -- I found it. 16 Q. And -- and you say, "The first half of the 17 letter is brilliant. I made just a slight addition." 18 And then you say, "However starting with 'Upgrade and 19 Grow', it loses fire." Do you see that? 20 A. Yes, ma'am. 21 Q. So if we go to the letter, the first page of 22 the letter, under the heading -- this is a letter that 23 Mr. Lamb wrote to Mr. Hendrick at a time when Hendrick 24 was considering moving from Reynolds to CDK; is that 25 correct?</p>	<p style="text-align: right;">Page 187</p> <p>1 collision centers is a major project with serious 2 risks." Do you agree with that statement? 3 MS. GULLEY: Objection; form. 4 A. Yes, ma'am. The sheer size of it is -- is what 5 makes it, you know, challenging. It's one thing to 6 convert one dealer or two dealers or four dealers or a 7 dozen dealers, whatever, but to convert 95 and 29 8 collision centers, the sheer scale, you know, causes it 9 to be a -- a very serious project and with risks. 10 Q. (By Ms. Wedgworth) One of those risks is it 11 would take -- likely take years to recover? 12 MS. GULLEY: Form. 13 A. Well, again, the issue is -- as I've -- as I've 14 previously stated, is that the training and education of 15 personnel is -- is the biggest problem, by far, in 16 conversions. And if you have, you know, 95 sets of 17 personnel, with each dealership has its own personnel 18 structure that has to be, you know, taught, they have 19 to, you know, accept the fact that change is going to 20 happen. Get serious about learning the new software. 21 Again, if you take that project for one dealer or two 22 dealers or five dealers -- it's just way greater if it's 23 95. And that -- that causes, you know, the risk 24 quotient to go up. 25 Q. (By Ms. Wedgworth) Even at one dealer, though,</p>

6 (Pages 184 - 187)

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<p style="text-align: right;">Page 188</p> <p>1 you have the same issue of training the personnel; 2 correct? 3 A. Yes. But it's much smaller. It could be, for 4 instance, the number of people around this table. 5 Q. Well, it also depends on the size of that 6 dealership originally as well; correct? 7 A. That's correct. 8 Q. But here, Mr. Lamb says, "It will likely take 9 years to recover." You agree with that, right? 10 MS. GULLEY: Form. 11 A. In this particular situation, the level of risk 12 was such that, because of the number of people that have 13 to be trained, it could take -- assuming it went wrong, 14 it could take quite a while. 15 Q. (By Ms. Wedgworth) The last sentence on this 16 page says -- Mr. Lamb writes, "Reynolds tracks all 17 dealerships who convert using publicly available data." 18 Do you see that? 19 A. Yes, I do. 20 Q. Do you agree with that statement? 21 A. I think that -- that the statement is -- is 22 somewhat less than complete, because publicly available 23 data -- I think that the -- the number of dealerships 24 that are public is less than ten. I think the number is 25 actually, like, seven. And so while "Reynolds tracks</p>	<p style="text-align: right;">Page 190</p> <p>1 identified the key issues, specifically, the fact that 2 we had a windows-based DMS. And even more specifically, 3 that it talks about the products that we have that are 4 extremely profitable for the dealer, which are -- 5 docuPAD is, perhaps, the leading one. 6 Q. (By Ms. Wedgworth) If we go to the next page 7 of the letter, at the top, it says, "Here are examples 8 of when a group converts from Reynolds." Do you see the 9 chart at the top of the page? 10 And then underneath -- and it lists 11 Herb's -- Herb Chambers, Prestige Management Services 12 and Ed Morse and other auto dealerships. Do you see 13 that? 14 A. Yes, I do. 15 Q. And then Mr. Lamb writes, "In nearly all cases, 16 there is a significant drop in sales, which is expected 17 the first year or two of a conversion given all the 18 employee turnover and customer disruption." Do you see 19 that? 20 A. Yes, I do. 21 Q. Do you agree with that statement? 22 A. I think, certainly, you can pick out cases 23 where, you know, that -- that has been a -- a true 24 statement. And certainly in these cases here -- I know 25 some of these customers. Their problem was -- and</p>
<p style="text-align: right;">Page 189</p> <p>1 all dealerships who convert using publicly available 2 data" -- it sounds like a lot of dealers, but it's not. 3 It's -- it's really only seven or eight. 4 Q. So in this letter that Mr. Lamb writes to the 5 Hendrick Automotive, he's less than complete on this 6 statement? 7 MS. GULLEY: Objection; form. 8 A. No. I think the -- the state- -- the statement 9 as written is true, okay? 10 Q. (By Ms. Wedgworth) And complete? 11 MS. GULLEY: Objection; form. 12 A. Well, when you say "complete," as a sentence, 13 it certainly is complete. Is it -- is it a paragraph, 14 or is it a page that describes everything that go -- 15 goes into this statement? No, it's not. 16 Q. (By Ms. Wedgworth) Well, you commented that 17 the first half of this letter was brilliant. Do you 18 still stand by that? 19 MS. GULLEY: Objection; form. 20 A. Well, first of all, I didn't detect any 21 spelling errors and, you know, that pleased me a lot. 22 Salespeople are not necessarily the greatest as far as 23 grammar and, you know, punctuation and spelling and that 24 sort of thing. 25 I thought it was brilliant in that it</p>	<p style="text-align: right;">Page 191</p> <p>1 that's they had, you know, turnover at the top, change 2 in -- in dealership, you know, leaders. I don't know 3 that that's the case in all of them, but I believe from 4 a statistical standpoint, you know, the stats that are 5 shown here are true. But to say that they're -- they're 6 completely the result of -- of a conversion, it could be 7 true; it could not be true. 8 Q. Well, you stand by the statement Mr. Lamb wrote 9 in this letter, don't you? 10 MS. GULLEY: Objection; form. 11 A. Yes, I do. These -- these statistics -- or 12 these particular dealerships are a matter of public 13 record. 14 Q. (By Ms. Wedgworth) So is it fair to say, in 15 nearly all cases, there is a significant drop in sales, 16 which is expected the first year or two of a conversion, 17 given all the employee turnover and customer disruption? 18 MS. GULLEY: Objection; form. 19 A. I -- I think that -- that there's no question 20 that the statistics that are shown for these dealerships 21 are true. I don't agree that one can necessarily infer 22 that all situations, that, you know, that's what's 23 happening. 24 Q. (By Ms. Wedgworth) Well, you approved this 25 letter in this statement going to Hendrick Automotive</p>

7 (Pages 188 - 191)

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<p style="text-align: right;">Page 192</p> <p>1 Group; correct?</p> <p>2 MS. GULLEY: Objection; form.</p> <p>3 A. Yes, I did.</p> <p>4 Q. (By Ms. Wedgworth) The next sentence says,</p> <p>5 "What is really surprising is these groups have not</p> <p>6 recovered." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And do you recall that these groups listed</p> <p>9 above, where they drop in sales from one year over the</p> <p>10 next, have yet to recover?</p> <p>11 A. That, I -- I don't have knowledge of.</p> <p>12 Q. So the last one on the chart, Gordon Auto</p> <p>13 Group, it had a conversion year in 2009. Do you see</p> <p>14 that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And then last year Aut- -- Automotive News</p> <p>17 ranked them as 110. And in 2014, which is -- appears to</p> <p>18 be the most recent data for this letter -- they're at</p> <p>19 142 with a change, according to this chart, of going</p> <p>20 down 32 places. Do you see that?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Okay. And in this chart, Mr. Lamb is</p> <p>23 representing to Hendrick Automotive Group that the</p> <p>24 conversion had something to do with their lowering in</p> <p>25 rank of sales; correct?</p>	<p style="text-align: right;">Page 194</p> <p>1 big conversions, are a problem. But what I'm saying is</p> <p>2 there's -- there's other factors that have to do with</p> <p>3 Automotive News ranking, and other motivations, other</p> <p>4 reasons.</p> <p>5 Q. (By Ms. Wedgworth) Is it fair to say that, for</p> <p>6 some dealerships who convert, it takes at least one to</p> <p>7 two years to recover?</p> <p>8 A. Certainly if they don't educate their people</p> <p>9 properly. If they don't force their people to learn the</p> <p>10 new software promptly, you know, that can occur.</p> <p>11 Q. You mentioned docuPAD in your previous answer</p> <p>12 and some yesterday. If a dealership buys a docuPAD, is</p> <p>13 it -- is the price for that purchase and installation</p> <p>14 somewhere around \$10,000 per unit?</p> <p>15 MS. GULLEY: Form.</p> <p>16 A. Yes, it is.</p> <p>17 Q. (By Ms. Wedgworth) And is there a monthly</p> <p>18 maintenance fee per docuPAD of \$1,000 a month?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. And as to any change on any form used on the</p> <p>21 docuPAD, is there a cost of -- of around \$300 for any</p> <p>22 change?</p> <p>23 A. I disagree that that's for any change. A whole</p> <p>24 brand-new document, like, for instance, a new finance</p> <p>25 contract, the charge would be in that area. But to say</p>
<p style="text-align: right;">Page 193</p> <p>1 A. That's what it's saying. I have a little bit</p> <p>2 different belief as far as changes in Automotive News</p> <p>3 ranking. Dealerships are inherently very competitive</p> <p>4 people. And the -- the standard of measurement between</p> <p>5 dealerships is typically number of cars sold, number of</p> <p>6 vehicles sold.</p> <p>7 It happens continuously in this industry</p> <p>8 where a dealer will want to have his name in lights as</p> <p>9 far as his ranking is concerned, and so he'll do</p> <p>10 whatever it takes to sell more cars, which means he cuts</p> <p>11 price. And he gets his name in lights, and he gets his</p> <p>12 Automotive News ranking up, and then he decides he's not</p> <p>13 making enough money. And then he decides to tighten up</p> <p>14 on discounting and not to try to sell everybody every</p> <p>15 car.</p> <p>16 But his -- so the sales numbers go down,</p> <p>17 but his profit -- his internal profit numbers -- go way</p> <p>18 up. And then they kind of -- like this (indicating).</p> <p>19 Q. And in spite of all that, Mr. Lamb -- with your</p> <p>20 approval, saying it was "brilliant" -- quotes Automotive</p> <p>21 News ranking with regard to sales in order to convince</p> <p>22 Hendrick to not convert; is that correct?</p> <p>23 MS. GULLEY: Form.</p> <p>24 A. What I'm saying is -- and that's that,</p> <p>25 certainly, conversion issues, particularly with -- with</p>	<p style="text-align: right;">Page 195</p> <p>1 that any change is in that area, that would not be</p> <p>2 correct.</p> <p>3 Q. Can any change with regard to any docuPAD</p> <p>4 document be made for free at Reynolds?</p> <p>5 A. To the best of my knowledge, unless we have</p> <p>6 done something in error, in which case we would adjust,</p> <p>7 or if -- if the entity that produced the contract in the</p> <p>8 first place, if it was not working, you know, correctly</p> <p>9 after installation, we would fix that at no charge. But</p> <p>10 other than those kind of situations, it would be a</p> <p>11 charge.</p> <p>12 Q. Is the average charge for any change on any</p> <p>13 document or form with regard to docuPAD roughly \$300?</p> <p>14 A. I -- I don't know that there is an average. We</p> <p>15 don't keep that. You know, there's not a stat that --</p> <p>16 you know, that I know of or ever seen.</p> <p>17 Q. Well, would it surprise you to say that -- I've</p> <p>18 heard dealers say that, for any change, when you use the</p> <p>19 docuPAD, everything is \$300?</p> <p>20 A. Ma'am, dealers will say most anything on any</p> <p>21 given day.</p> <p>22 Q. Well, does it surprise you they say any change</p> <p>23 is \$300 on a docuPAD form or document?</p> <p>24 MS. GULLEY: Objection. I'm sorry.</p> <p>25 Objection; form.</p>

8 (Pages 192 - 195)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 196</p> <p>1 DEFENSE COUNSEL: Objection. (Inaudible.)</p> <p>2 A. Again, ma'am, you know, dealers are prone day</p> <p>3 to day to say almost anything. And I -- I have been in</p> <p>4 this business now -- the 10th of January this year, I've</p> <p>5 been at it 53 years. And I -- I haven't seen it all,</p> <p>6 but I've seen a lot. And one of the things is -- is</p> <p>7 dealers will say most anything.</p> <p>8 Q. (By Ms. Wedgworth) If a dealership has</p> <p>9 Reynolds DMS and switches out of Reynolds, can they</p> <p>10 return the docuPAD and get a credit on an account?</p> <p>11 A. No, ma'am.</p> <p>12 Q. Can they sell the docuPAD?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. To -- can they sell it to another dealership</p> <p>15 who could then use it?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And are you aware of any -- any incidences like</p> <p>18 that?</p> <p>19 A. I think I've been exposed to just one. You</p> <p>20 know, docuPAD is a -- an amazing profit producer. I</p> <p>21 don't know whether you've ever bought a car, you know,</p> <p>22 and been through the docuPAD experience and contrast</p> <p>23 that with a typical, you know, finance and information</p> <p>24 manager's, you know, closing techniques.</p> <p>25 You know, docuPAD takes that all away. It</p>	<p style="text-align: right;">Page 198</p> <p>1 was simply: Are you aware of any incidents like that,</p> <p>2 where a dealership can sell their docuPAD? That was my</p> <p>3 question. It was -- it was straightforward. "Yes" or</p> <p>4 "no"?</p> <p>5 MS. GULLEY: Form.</p> <p>6 A. Yes.</p> <p>7 Q. (By Ms. Wedgworth) And you said there was one</p> <p>8 occasion; is that right?</p> <p>9 MS. GULLEY: Form.</p> <p>10 A. Well, there's one that I know of.</p> <p>11 Q. (By Ms. Wedgworth) Now, you've had a chance to</p> <p>12 review this letter that was sent by Mr. Lamb to Hendrick</p> <p>13 Automotive Group. Is there anything in the letter that</p> <p>14 you're aware of that's inaccurate?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. I would want to read it again.</p> <p>17 Q. (By Ms. Wedgworth) Well, I'm not asking you to</p> <p>18 read it again. As you reviewed it, did -- did anything</p> <p>19 stick out as being inaccurate to you?</p> <p>20 MS. GULLEY: Objection to the form and</p> <p>21 instruction.</p> <p>22 A. Ma'am, I would really like to read it one more</p> <p>23 time.</p> <p>24 Q. (By Ms. Wedgworth) Well, then let's put it</p> <p>25 aside and we can go on to the next document.</p>
<p style="text-align: right;">Page 197</p> <p>1 is completely user driven in that you interact with --</p> <p>2 you know, the screen, with the stylus. And you make</p> <p>3 your choices with no pressure, you know, from the</p> <p>4 finance manager. And customers love it. The reason why</p> <p>5 dealerships love it is -- and that's because customers</p> <p>6 have a chance to choose. And a miracle occurs; they buy</p> <p>7 more.</p> <p>8 And that's the reason why docuPAD produces,</p> <p>9 you know, profits on the average of \$200 per trans- --</p> <p>10 per vehicle sales transaction. And if you have a -- a</p> <p>11 typical finance manager will handle on the order of 70</p> <p>12 transactions a month. At \$200 additional profit, that's</p> <p>13 \$14,000 a month, which means that you recover the</p> <p>14 initial cost of docuPAD very, very quickly. And then</p> <p>15 from that point on, it is a massive generator of</p> <p>16 profits.</p> <p>17 We have dealers that are willing to, you</p> <p>18 know, have their picture in Automotive News and</p> <p>19 advertisements and say, "docuPAD paid for my entire</p> <p>20 Reynolds bill," which is --</p> <p>21 You know, I didn't invent docuPAD, but I</p> <p>22 saw it and bought it. And the results of -- are nigh on</p> <p>23 miraculous.</p> <p>24 MS. WEDGWORTH: Move to strike.</p> <p>25 Q. (By Ms. Wedgworth) Mr. Brockman, my question</p>	<p style="text-align: right;">Page 199</p> <p>1 With regard to the Reynolds DMS contract,</p> <p>2 do you know the average length of the -- the DMS</p> <p>3 contract that a dealer signs today?</p> <p>4 A. We don't keep an average number. That's not a</p> <p>5 stat that I keep or have kept. What we see is -- and</p> <p>6 this is just a general, you know, observation, it's not</p> <p>7 at all a scientific average. Typically, you know, five</p> <p>8 years to seven years. It is rarely less than that.</p> <p>9 Q. Does Reynolds offer a contract -- DMS contract</p> <p>10 to dealers less than five years?</p> <p>11 A. We don't offer one. In some cases, you know,</p> <p>12 we end up negotiating the one that -- where the length</p> <p>13 of contract relates to the whole process of -- of buying</p> <p>14 a DMS system is -- and that's the -- the level of</p> <p>15 discount that the dealership will achieve, it will be</p> <p>16 based upon the length of the contract. And that</p> <p>17 short-term contracts -- we'll say a 36-month contract --</p> <p>18 of the discount is appreciably less. And the dealer has</p> <p>19 a choice. They can go for a short-term contract, or</p> <p>20 they can go for a long-term contract; they get a better</p> <p>21 discount.</p> <p>22 Q. Are there any DMS contracts at Reynolds longer</p> <p>23 than seven years?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. What's the longest contract that Reynolds has</p>

9 (Pages 196 - 199)

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<p style="text-align: right;">Page 200</p> <p>1 with the dealership concerning DMS?</p> <p>2 MS. GULLEY: Objection; form.</p> <p>3 A. I -- I can't speak to what's the longest. I</p> <p>4 have seen them ten years and, in some cases, a little</p> <p>5 over ten years. But that's not a -- that's not a</p> <p>6 complete statement, because I don't see every contract.</p> <p>7 I just see some.</p> <p>8 Q. (By Ms. Wedgworth) Does Reynolds track the</p> <p>9 tenure that a dealership stays with Reynolds?</p> <p>10 A. No. We have no process for doing that. The</p> <p>11 only way to know is -- and that's to go to the contract</p> <p>12 file and see what prior contracts are in the contract</p> <p>13 file. We don't -- we don't produce any reports in -- in</p> <p>14 that regard.</p> <p>15 Q. And have you ever tried to determine</p> <p>16 the average tenure of a Reynolds dealership?</p> <p>17 A. No, ma'am, I have not.</p> <p>18 Q. Anyone at Reynolds tried that?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. Again, no way of knowing.</p> <p>21 Q. (By Ms. Wedgworth) Well, you said you could</p> <p>22 look at the contracts and make that determination?</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. (By Ms. Wedgworth) And no one at Reynolds has</p>	<p style="text-align: right;">Page 202</p> <p>1 sit here?</p> <p>2 A. No, ma'am.</p> <p>3 Q. Do you have any reason to believe this -- that</p> <p>4 you didn't receive and write this email?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. No, ma'am. I -- I presume it is. It's not a</p> <p>7 forgery. I -- I have no reason to -- to believe that</p> <p>8 it's not accurate. But I -- I don't remember anything</p> <p>9 about -- GuesTraq is -- must be some very minor entity,</p> <p>10 because I sure don't remember anything about it. I</p> <p>11 don't know what it does.</p> <p>12 Q. (By Ms. Wedgworth) Is this an example of you</p> <p>13 granting exemption -- an exemption to a third party?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. I'd say, based on -- on what's in bold -- what</p> <p>16 I'm saying here -- and that's that I don't want to</p> <p>17 invest the time and trouble right now which, I would</p> <p>18 presume, that applies to an RCI interface.</p> <p>19 Q. (By Ms. Wedgworth) So it's fair to say that</p> <p>20 you are granting an exemption to GuesTraq here?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. Well, there's -- there's -- to discuss that,</p> <p>23 you've got to look at this next-to-the-last sentence,</p> <p>24 where it talks about Query Builder. Query Builder is</p> <p>25 a -- a piece of software. It is -- it's a reporting</p>
<p style="text-align: right;">Page 201</p> <p>1 done that?</p> <p>2 A. There's not been any --</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. -- any, you know, orchestrated plan or project</p> <p>5 to go determine, you know, what the tenure is. On an</p> <p>6 individual basis, at contract renewal time, it may come</p> <p>7 up that this customer has been a customer for 22 years.</p> <p>8 Q. (By Ms. Wedgworth) Mr. Brockman, I'll show you</p> <p>9 what's been marked as Plaintiff's Exhibit 658.</p> <p>10 (Exhibit 658 was marked for</p> <p>11 identification.)</p> <p>12 MS. WEDGORTH: Which is Bates-stamped</p> <p>13 REYMDL00045348.</p> <p>14 Q. (By Ms. Wedgworth) Have you had a chance to</p> <p>15 review the document?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Is GuesTraq a third party here?</p> <p>18 A. Yes, I believe they are a third party.</p> <p>19 Q. And does this email reflect -- is this an email</p> <p>20 you wrote to Mr. Schaefer in response to an email he</p> <p>21 sent you on or about April 23rd, 2015 and April 30th,</p> <p>22 2015?</p> <p>23 A. It appears to -- that to be correct. Frankly,</p> <p>24 I don't remember this particular situation.</p> <p>25 Q. So GuesTraq doesn't ring a bell to you as you</p>	<p style="text-align: right;">Page 203</p> <p>1 software. It's not really very good. It's been around</p> <p>2 for quite a while. And we're -- we've created a much</p> <p>3 better set of reporting software, and we're endeavoring</p> <p>4 to, you know, get Query Builder phased out.</p> <p>5 And in that kind of situation, there's --</p> <p>6 there's always times when it arises when somebody is</p> <p>7 using Query Builder and we'd rather they not use Query</p> <p>8 Builder because we want to get rid of all Query Builder</p> <p>9 usage. We want to delete that software, because we have</p> <p>10 better software. We don't want to continue to maintain,</p> <p>11 you know, very, very old and obsolete-type -- type</p> <p>12 software.</p> <p>13 And so the question is, typically: Do</p> <p>14 these people convert to an RCI? And that's what it</p> <p>15 looks like is the case here. And what I'm saying is --</p> <p>16 in this -- I don't want to put them through RCI, you</p> <p>17 know, because that's -- that's a development effort.</p> <p>18 Instead, for the time being, let them continue operating</p> <p>19 the way they're operating.</p> <p>20 Q. (By Ms. Wedgworth) So you approve the ongoing</p> <p>21 exemption for GuesTraq; correct?</p> <p>22 A. Yeah. Temporarily.</p> <p>23 Q. And do you limit the time of the exemption in</p> <p>24 this email?</p> <p>25 A. Not in this email. I worked very closely with</p>

10 (Pages 200 - 203)

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<p style="text-align: right;">Page 204</p> <p>1 Mr. Schaefer, and he understands what I'm doing is -- 2 and that's that I -- I'm being forced into a situation 3 of expediency due to development processes. 4 Q. You can set that aside. I want to talk a 5 little bit about ODE, Open Dealer Exchange. Are you 6 familiar with that organization? 7 A. Yes, ma'am. 8 Q. And it's a joint venture between Reynolds and 9 CDK; is that correct? 10 A. That's correct. 11 Q. Do Reynolds and CDK each own 50 percent of ODE? 12 A. That's correct. 13 Q. How did that come about, ODE? 14 MS. GULLEY: Objection; form. 15 Q. (By Ms. Wedgworth) How did ODE come about? 16 MS. GULLEY: Objection; form. 17 A. I think it came about by the fact that there's 18 a -- a process in the -- in the dealership world. It's 19 like this: You have a prospect that comes into the 20 dealership. They're looking for a certain kind of 21 vehicle. You have some of those type that they're 22 looking for: different colors, different trim levels, 23 different options. You go out and you -- you walk the 24 inventory. And they get to visit the green one and the 25 red one and the blue one and the silver one. And</p>	<p style="text-align: right;">Page 206</p> <p>1 Q. (By Ms. Wedgworth) How ODE got started. 2 MS. GULLEY: Just let him finish his 3 previous answer. 4 Just go ahead and finish the answer. 5 A. The how, the first part about it is -- implies 6 the why. Okay? 7 Q. (By Ms. Wedgworth) Actually, it doesn't. It's 8 a how. 9 MS. GULLEY: Just let him finish. 10 MR. RYAN: Let me -- let me just -- I know 11 my object- -- her objections are good for me, but I 12 believe the question was: How did it come about? And I 13 think he's answering that question. 14 MS. GULLEY: Correct. 15 A. That's certainly what I'm trying to do. 16 MS. GULLEY: Go ahead and continue your 17 response. 18 A. In any rate, at this point, the salesperson 19 inputs the -- you know, the facts of the -- of the 20 transaction, which is the -- you know, the type of car, 21 what the sales price is, you know, what the down payment 22 is, what -- what the consumer's FICO score is. And they 23 can, with a -- not much more than a press of a button, 24 send that package of information to a potential lender. 25 And the lender can look at it and say "Yes" or "No" or</p>
<p style="text-align: right;">Page 205</p> <p>1 they -- they have different types of interiors, you 2 know, more leather and less leather. 3 But any rate, the prospect finally decides, 4 "I like this one here." And the car salesman's heart 5 kind of takes a leap for the good. They go back inside 6 to see if they can work out a deal. Well, an inherent 7 part of -- you know, a giant percentage of car sales 8 involves financing. I don't know what the number is, 9 but I wouldn't be surprised by an 80 or 90 percent car 10 sales transactions that involve financing where the 11 dealership has -- has to help get done. 12 So what happens is -- and that's the car 13 salesperson gets an authorization form signed by the 14 prospect to pull their credit. They pull their credit 15 and get their FICO score. And then they go shopping for 16 financing. And Dealertrack has built up a -- a nifty 17 application, and it's enjoyed very considerable success 18 with it. And what it does is -- and that's that you 19 enter the -- you know, the information about this 20 potential transaction, what kind of vehicle it is -- 21 Q. (By Ms. Wedgworth) I'm focusing on ODE, not 22 Dealertrack. 23 MS. GULLEY: Just let him finish his 24 answer. 25 A. But you're asking me why ODE got started.</p>	<p style="text-align: right;">Page 207</p> <p>1 "Maybe," or "Maybe with a little more down payment, it 2 will work." Or "We need to have some more proof of 3 employment." 4 And it facilitates, you know, the whole 5 financing process. And Dealertrack has done a very good 6 job of -- of building that -- that product and has, 7 basically, a near monopoly on that process. And so 8 ODE's goal was, was to be able to replicate that process 9 and become successful in that marketplace. 10 Q. (By Ms. Wedgworth) Were you the decision maker 11 to enter ODE as a joint venture with CDK? 12 A. I was responsible for the Reynolds side. 13 Q. Did you contact CDK or did CDK contact you, 14 initially? 15 A. I don't specifically recall that, but I -- 16 my -- my belief is -- and that's they contacted us. 17 Q. Who contacted you at CDK? 18 A. I don't think that the contact was directly 19 with me. It was -- it -- it was somebody else in our 20 organization. 21 Q. Who did you speak with about the joint venture 22 from CDK, initially? 23 MS. GULLEY: Objection; form. 24 A. I -- I would say that the -- the first 25 conversation, again, was not between me and CDK. It</p>

11 (Pages 204 - 207)

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<p style="text-align: right;">Page 208</p> <p>1 was with other people in our organization, principally 2 over in the product planning area. And it was only 3 after that, that I had conversation. And the name that 4 I recall I had a conversation with was Ron Workman. He 5 was a senior vice-president. 6 Q. (By Ms. Wedgworth) Who at Reynolds, in product 7 planning, spoke to CDK concerning forming ODE? 8 A. Certainly one of the people that would have 9 been involved was Jon Strawsburg. 10 Q. Anyone other than Mr. Strawsburg? 11 A. I'm sure there was, but I can't remember 12 specifically. 13 Q. You -- you said yesterday that CDK is your 14 largest competitor; is that a fair statement? 15 A. That's correct. 16 Q. Why did Reynolds en- -- enter into a joint 17 venture with its largest competitor? 18 A. Well, it wasn't because they were our largest 19 competitor, I can assure you that. But in the situation 20 like this, one has to decide, is the opportunity, you 21 know, worth it? In this particular case, it appeared to 22 be worth it. 23 The other principal factor is -- and that's 24 that if you don't do it, what else might, you know, CDK 25 do. Who might they partner up with? Might they partner</p>	<p style="text-align: right;">Page 210</p> <p>1 break? 2 MS. WEDGORTH: Yes. Let's take a break. 3 THE VIDEOGRAPHER: The time is 9:57 a.m., 4 and we're off the record. 5 (Short recess 9:57 to 10:17 a.m.) 6 THE VIDEOGRAPHER: The time is 10:17 a.m., 7 and we're back on the record. 8 EXAMINATION (Continuing) 9 BY MS. WEDGORTH: 10 Q. Mr. Brockman, focusing you back on ODE, have 11 CDK and Reynolds had meetings in person regarding ODE? 12 A. Yes, ma'am. 13 Q. How many? 14 A. Well, I -- I think in order to give the correct 15 answer on that -- are -- are we talking about meetings 16 where everybody that's involved are all together? Or 17 where some of the folks that are involved are all 18 together and some are on the phone? You know, which 19 definition of -- of "meeting," you know, would you like 20 me to answer? 21 Q. Well, ODE has board of directors' meetings; 22 correct? 23 A. That's correct. 24 Q. And are those board of directors' meetings in 25 person or by phone?</p>
<p style="text-align: right;">Page 209</p> <p>1 up with somebody else, which would mean that we would be 2 forever locked out of this very attractive business that 3 Dealertrack has. And so the decision was -- and that's 4 we ought to proceed, but proceed carefully, 5 investigating, you know, the potential with ADP. 6 Q. Was ODE founded around 2009? 7 A. I don't remember the exact date, but it's been 8 a while. 9 Q. And the decision to proceed with CDK was made 10 by you? 11 A. Yes. 12 Q. And in making that decision, you said you spoke 13 to Mr. Workman at CDK? 14 MS. GULLEY: Objection; form. 15 A. That was one of the people that -- that I 16 talked to. 17 Q. (By Ms. Wedgworth) Who else at CDK did you 18 speak to? 19 MS. GULLEY: Objection; form. 20 A. I'm sorry. I -- I don't remember the names. 21 You know, I think that there's -- you know, there's 22 been -- I know there's been turnover in that 23 organization, but Ron Workman was the consistent person 24 throughout. 25 MS. GULLEY: Is this a good time for a</p>	<p style="text-align: right;">Page 211</p> <p>1 A. Typically, by phone. 2 Q. And are those -- how often do those board of 3 directors' meetings occur? 4 A. There -- there's not a -- a fixed schedule, but 5 my -- my guess is -- and that would be probably on -- on 6 a quarterly basis, you know, three or four times a year. 7 Q. So on a quarterly basis, ODE holds telephonic 8 board of directors' meetings; is this correct? 9 A. Not -- generally on a quarterly basis. It's 10 not a fixed, you know, first quarter, second quarter, 11 third quarter, you know. 12 Q. And have you participated in meetings with CDK 13 concerning ODE in person? 14 A. I have, but rarely. 15 Q. Approximately how many times? 16 MS. GULLEY: Form. 17 A. No more than once a year, if that. It -- it 18 typically revolves around NADA, because we are -- we 19 tend to all parties be present at NADA, and so we'll sit 20 down and talk for half an hour. 21 Q. (By Ms. Wedgworth) So at the NADA meetings, 22 which are -- that's an annual conference? 23 A. Yes, ma'am. 24 Q. Held in, usually, late January, coming up? 25 A. Coming up. I understand it's going to be Super</p>

12 (Pages 208 - 211)

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<p style="text-align: right;">Page 212</p> <p>1 Bowl Weekend. It's going to be in San Francisco.</p> <p>2 Q. So normally, at the NADA meetings, you meet</p> <p>3 with CDK people con- -- to discuss ODE?</p> <p>4 MS. GULLEY: Form.</p> <p>5 A. Yes. And that meeting tends to be a very</p> <p>6 informal meeting, because we're -- there's not --</p> <p>7 there's no fixed agenda, there's no, you know, special</p> <p>8 place or whatever. We just find time to, you know, get</p> <p>9 together, you know, for a half hour or so.</p> <p>10 Q. (By Ms. Wedgworth) And when you -- the last</p> <p>11 time you met with CDK, who did you meet with?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. The only person whose name I -- there's two</p> <p>14 people: It was Steve Anenen and Ron Workman.</p> <p>15 Q. (By Ms. Wedgworth) And other than you meeting</p> <p>16 in person with CDK, do Reynolds people meet with CDK</p> <p>17 people regarding ODE in person?</p> <p>18 A. Yes. Yes.</p> <p>19 Q. How often?</p> <p>20 A. Again, there's no fixed schedule. It depends</p> <p>21 on, you know, what projects are at hand. You know, so</p> <p>22 it could be once or twice a year. It could be five,</p> <p>23 six, seven times a year.</p> <p>24 Q. Have you met with anyone from ODE at places</p> <p>25 other than the NADA convention?</p>	<p style="text-align: right;">Page 214</p> <p>1 believe that this is not the board meeting minutes</p> <p>2 of ODE for December 2015?</p> <p>3 MS. GULLEY: Form.</p> <p>4 A. Ma'am, I don't have, you know -- you know,</p> <p>5 clear enough memory of -- of that particular time, you</p> <p>6 know, several years back. That's three years back.</p> <p>7 This -- these are exactly what went on at -- it looks</p> <p>8 like it, but... (Pause.)</p> <p>9 Q. (By Ms. Wedgworth) There's someone here you</p> <p>10 haven't mentioned for CDK: Bihner -- Bihner,</p> <p>11 B-i-h-n-e-r. Do you know Mr. Bihner?</p> <p>12 A. I have been on telephone conversations with</p> <p>13 him, but I don't know. I think his first name is Joe.</p> <p>14 But I've -- I've -- and I may have met him at NADA and</p> <p>15 shaken hands with him, but I -- I couldn't pick him out</p> <p>16 of a crowd.</p> <p>17 Q. And Mr. Bihner is a CDK person?</p> <p>18 A. Yes.</p> <p>19 Q. Manager?</p> <p>20 A. I would think, maybe, perhaps he might even be</p> <p>21 an officer.</p> <p>22 Q. And for R&R, on these board meeting minutes has</p> <p>23 Mr. Pontis listed. Is he also someone from Reynolds who</p> <p>24 interacts with CDK concerning ODE?</p> <p>25 A. Yes. He works for Jon Strawsburg.</p>
<p style="text-align: right;">Page 213</p> <p>1 A. I think that I have, but I can't recall a</p> <p>2 specific, you know, time or place. Steve Lloyds is</p> <p>3 the -- is the, you know, the CEO of ODE. I talk to him</p> <p>4 mostly on the phone or, you know, over Skype. But as</p> <p>5 far as other people, I think I've -- I've been on</p> <p>6 telephone calls with their head of software development,</p> <p>7 Tom -- and I can't remember his last name right now.</p> <p>8 That -- you know, maybe once a year.</p> <p>9 (Exhibit 659 was marked for</p> <p>10 identification.)</p> <p>11 Q. (By Ms. Wedgworth) I'd like to show you what's</p> <p>12 been marked as Plaintiff's Exhibit 659. My initial</p> <p>13 question is: Have you seen this document before?</p> <p>14 A. No, ma'am.</p> <p>15 Q. You have not?</p> <p>16 A. Not this specific document, I don't believe.</p> <p>17 Q. The cover email says that Mr. Workman sent it</p> <p>18 to you on December 24th, 2015. The cover email. Is</p> <p>19 this an email you received from Mr. Workman on or about</p> <p>20 December 24th, 2015?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. Again, you know, this -- this cover email</p> <p>23 with -- would tend to indicate that, but I honestly</p> <p>24 don't recall, yeah, this specific email.</p> <p>25 Q. (By Ms. Wedgworth) Do you have any reason to</p>	<p style="text-align: right;">Page 215</p> <p>1 Q. You can put that aside.</p> <p>2 Is there any reason to believe that these</p> <p>3 minutes are inaccurate?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. No, ma'am.</p> <p>6 Q. (By Ms. Wedgworth) Now, Reynolds also has a</p> <p>7 relationship with CDK concerning CDR; correct?</p> <p>8 MS. GULLEY: Form.</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. (By Ms. Wedgworth) And that relationship is,</p> <p>11 again, a joint venture between Reynolds and CDK?</p> <p>12 A. That's my understanding. I -- I'm not --</p> <p>13 generally much less familiar with CVR, because that</p> <p>14 is something that was entered into considerably before</p> <p>15 my time at Reynolds. And it is, you know, completely</p> <p>16 controlled by CDK, because they have the -- the dominant</p> <p>17 ownership interest.</p> <p>18 Q. And CVR is 80 percent owned by CDK and 20</p> <p>19 percent owned by Reynolds; is that correct?</p> <p>20 A. That's my understanding. Although I'm not in a</p> <p>21 position where I can say for sure that's exactly how it</p> <p>22 is, because I was not there when it was -- when it was</p> <p>23 founded.</p> <p>24 Q. So other than ODE and CVR, does Reynolds have</p> <p>25 any other formal relationships with CDK?</p>

13 (Pages 212 - 215)

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<p style="text-align: right;">Page 216</p> <p>1 MR. RYAN: Objection.</p> <p>2 A. I don't think so.</p> <p>3 Q. (By Ms. Wedgworth) Does Reynolds have any</p> <p>4 informal relationships with CDK currently?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. Yes. Probably one.</p> <p>7 Q. (By Ms. Wedgworth) What is that?</p> <p>8 A. It is a -- again, this is something that, you</p> <p>9 know, began considerably before my time. But I came --</p> <p>10 became aware of its existence, you know, after we</p> <p>11 acquired Reynolds. It has to do with -- when a customer</p> <p>12 decides to leave, you know, one of us, as long as that</p> <p>13 customer pays all their bills, honors all of their</p> <p>14 contractual obligations, we will turn over to the</p> <p>15 assuming company copies of data files for that</p> <p>16 dealership.</p> <p>17 Q. And that relationship, you have with CDK?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. And --</p> <p>20 A. And I might add that it is unwritten, informal.</p> <p>21 And I wouldn't go so far as to characterize it as a</p> <p>22 relationship. What it is -- it is a practice. And</p> <p>23 it -- it has no specified duration. It's something</p> <p>24 that, you know, either one of us could, you know, quit</p> <p>25 tomorrow.</p>	<p style="text-align: right;">Page 218</p> <p>1 regarding this DMS agreement is with CDK?</p> <p>2 MS. GULLEY: Objection; form.</p> <p>3 A. That -- that's correct.</p> <p>4 Q. (By Ms. Wedgworth) I'd like to show you what's</p> <p>5 been previously marked as Exhibit 504. I don't think we</p> <p>6 have to mark it again.</p> <p>7 MS. GULLEY: You don't.</p> <p>8 Q. (By Ms. Wedgworth) Previously marked Exhibit</p> <p>9 504, Mr. Brockman. Document Bates-stamped</p> <p>10 REYMDL00263055. Have you had time to review the</p> <p>11 document, Mr. Brockman?</p> <p>12 A. I've never seen this before. Could you give me</p> <p>13 just a moment more?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. Is this an email you received and responded to</p> <p>17 on or around May 30, 2017?</p> <p>18 A. Yes, ma'am, it appears to be that.</p> <p>19 Q. And was it your intent to be truthful and</p> <p>20 accurate in writing the email?</p> <p>21 MR. RYAN: Objection.</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. (By Ms. Wedgworth) And here you're responding</p> <p>24 to a question from Mr. Strawsburg; correct?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 217</p> <p>1 Q. So you would not call it an informal</p> <p>2 relationship?</p> <p>3 A. No, ma'am. I would call it a practice.</p> <p>4 Q. Is the inform- -- the practice reciprocal?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. (By Ms. Wedgworth) Who for CDK -- who for</p> <p>8 Reynolds implements this reciprocal practice?</p> <p>9 MS. GULLEY: Form.</p> <p>10 Q. (By Ms. Wedgworth) Between CDK and Reynolds?</p> <p>11 MS. GULLEY: Form.</p> <p>12 A. I honestly don't know which department actually</p> <p>13 handles it. It's my belief that it gets done but, you</p> <p>14 know, exactly where in the organization it occurs, I --</p> <p>15 I can't tell you.</p> <p>16 Q. (By Ms. Wedgworth) Would it be under</p> <p>17 Mr. Schaefer's role? His team?</p> <p>18 A. It could be. But for some reason, I think</p> <p>19 that -- that that's not where it happens. I think it --</p> <p>20 it's more likely to happen over in part of the</p> <p>21 operations department of the organization.</p> <p>22 Q. Do you have a similar reciprocal relationship</p> <p>23 with any other DMS providers?</p> <p>24 A. Do not.</p> <p>25 Q. So the only reciprocal relationship you have</p>	<p style="text-align: right;">Page 219</p> <p>1 Q. And in the email you write, "Other than our</p> <p>2 informal relationship with CDK, we provide no assistance</p> <p>3 to any third party." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Is this the informal relationship with CDK you</p> <p>6 just testified about?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. So in -- in the response to Mr. Strawsburg, you</p> <p>9 referred to it as an informal relationship?</p> <p>10 A. Yes, ma'am, in that case, I did.</p> <p>11 Q. And did this informal relationship with CDK</p> <p>12 allow CDK to access Reynolds software in May 2017?</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. The answer to that is "not correct."</p> <p>15 Q. (By Ms. Wedgworth) Did this informal</p> <p>16 relationship with CDK allow CDK to -- to work with</p> <p>17 Reynolds regarding the -- both DMS systems?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. There -- we need to talk some more about, you</p> <p>20 know, what, you know, the informal relationship -- or</p> <p>21 this involves. We receive notification, typically</p> <p>22 from the customer, that they're -- that they're</p> <p>23 converting to CDK. And our first question is -- is:</p> <p>24 "Well, have you decided when?" And with that</p> <p>25 information, we also ask them to -- to notify CDK --</p>

14 (Pages 216 - 219)

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<p style="text-align: right;">Page 220</p> <p>1 actually, CDK is notifying them as to when their 2 conversion is going to take place. 3 And there's a scheduling process that takes 4 place where -- when the conversion data is going to be 5 outputted on to a tape, and that tape is -- can then -- 6 then be given, you know, to CDK. They don't actually 7 access our systems at all. 8 There -- there's an inter- -- intermediate 9 step in there where the accounts receivable position 10 of -- of the customer is verified by our accounting 11 department. And it's not just, you know, what 12 they might be currently due, but also what's going to be 13 due by the time the conversion occurs. And so 14 there's -- there then -- there's then a dollar amount 15 which represents the total remaining obligation of the 16 customer, and that's from a financial standpoint. And 17 before the tape is actually cut, we get a check for 18 their remaining financial obligation. 19 Q. (By Ms. Wedgworth) And then CDK and Reynolds 20 have a conversation; is that correct? 21 A. No. There -- there's been a conversation prior 22 to that, but it will be a -- a subsequent conversation. 23 It -- it's a multistep, and I -- I'm not in a position, 24 from a knowledge standpoint, to describe that with 25 perfect accuracy. But generally, that's what happens.</p>	<p style="text-align: right;">Page 222</p> <p>1 basis? 2 A. Yes, ma'am. 3 Q. And the purpose of this report is for Reynolds 4 to understand the financial analysis going on, overall, 5 at the company; is that correct? 6 A. That's correct. It's prepared for senior level 7 vice-presidents. And it -- it's not financial 8 statements, but it's financial information. And to say 9 that it's used to run the company is probably a 10 mischaracterization. 11 I get this report once a month. I probably 12 spend 30 minutes on it. And the reason why I only spend 13 30 minutes on it is because it's historical information. 14 It is -- has been -- very little bearing as what I 15 should be doing on a day-to-day. Reynolds is the type 16 of company where what happened five years ago has way 17 more impact on what we see in here than what happened -- 18 than what's happened in the last month. 19 Q. And these reports show that -- whether or not 20 Reynolds is -- what their sales are; is that correct? 21 MS. GULLEY: Form. 22 A. Yes. That -- that is one of the sta- -- 23 statistics that it provides. But, again, from an 24 important standpoint, as far as running the company, 25 this report is very little used by me. I'm much more</p>
<p style="text-align: right;">Page 221</p> <p>1 Q. And Reynolds does not have that relationship 2 with any other DMS provider; is that correct? 3 MS. GULLEY: Objection; form. 4 A. That's correct. What the other -- other 5 providers have to do is -- and that's they have to ask 6 the customer to, you know, run reports of things like 7 parts inventory and vehicle inventory and general ledger 8 balances, for the -- for the customer to copy those 9 reports out to a -- a thumb drive or a small hard disk 10 and -- and give that to the vendor that they're going 11 to, that they're converting to. And then those reports 12 are run through data conversion programs to accomplish 13 the same thing. 14 MS. WEDGORTH: Move to strike everything 15 after "That's correct." 16 Q. (By Ms. Wedgworth) You can set that document 17 aside, Mr. Brockman. Mr. Brockman, I'll show you what's 18 been marked as Plaintiff's Exhibit 660. 19 (Exhibit 660 was marked for 20 identification.) 21 Q. (By Ms. Wedgworth) I believe yesterday you 22 testified this type of document is a management report 23 concerning finances at Reynolds; is that correct? 24 A. That -- that's correct. 25 Q. And do you receive these reports on a monthly</p>	<p style="text-align: right;">Page 223</p> <p>1 interested in who we've hired, the customers we've sold, 2 what projects we're accomplishing as far as new product 3 development. Those are all way more -- way more 4 important for the success of the organization. 5 Q. (By Ms. Wedgworth) Well, these are prepared by 6 Reynolds at least on a monthly basis; correct? 7 A. That's correct. 8 Q. And they are sent to you at least on a monthly 9 basis? 10 A. That's correct. 11 Q. And it's -- there is a team at Reynolds who 12 prepares these financials; is that correct? 13 A. That's correct. 14 Q. If we go to Page 12 of this document, which has 15 a Bates ending 712. And this document, at the top, is 16 "NA DMS Product Solution Data Services P&L." Do you see 17 that at the top? 18 A. Yes, ma'am. 19 Q. Under the "One Time Revenue" for RCI, you'll 20 see that there's a variance of 354 percent here. Do you 21 see that? 22 A. I'm sorry that I'm not quite -- could you -- 23 Q. So it would be the third line of numbers down. 24 A. Okay. Yes. Okay. I see the third line of 25 numbers down.</p>

15 (Pages 220 - 223)

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<p style="text-align: right;">Page 224</p> <p>1 Q. Where it looks like in January of 2015 there 2 were 150 RCI customers. And then for 2016, there's 681 3 customers. Do you see that? Or sales? 4 MS. GULLEY: Objection; form. 5 A. I'm seeing that. I'm not sure that it says 6 that's customers. 7 Q. (By Ms. Wedgworth) Or sales -- of 150 sales 8 versus 681 in 2016? 9 MS. GULLEY: Objection; form. 10 A. What my issue is -- and that's -- it's just I'm 11 not really familiar with this report. I don't know 12 whether that means -- whether that's a sales number or 13 whether that's a customer number. 14 Q. (By Ms. Wedgworth) In either event, it's 15 increased 354 percent; you would agree? 16 MS. GULLEY: Objection; form. 17 A. Whatever it is, it's got "354%" beside it. 18 Q. So the heading on the left-hand side says, "One 19 Time Revenue." Do you see the heading? 20 MS. GULLEY: Objection; form. 21 A. Yes, I see that. 22 Q. (By Ms. Wedgworth) And so for RCI, for January 23 2016, it's 681 versus 150 in the month a year earlier. 24 MS. GULLEY: Form. 25 A. Yes, that's what it looks like. You're</p>	<p style="text-align: right;">Page 226</p> <p>1 see that? 2 A. Yes, I see that. 3 Q. Okay. So is it fair to say that, after the 4 February 2015 agreements, that revenue for RCI jumped 5 dramatically? 6 MS. GULLEY: Objection; form. 7 A. Well, when you referred to agreements, I'm -- 8 I'm -- can you describe which agreement that you're 9 talking about? 10 Q. (By Ms. Wedgworth) Well, the data exchange 11 agreements and the other two agreements in February of 12 2015. We looked at the exhibit yesterday that you 13 signed. 14 A. Okay. The -- 15 MS. GULLEY: Objection; form. 16 A. -- this -- this is the stand-down agreement, 17 you know, with CDK. 18 Q. (By Ms. Wedgworth) Okay. So after the 19 stand-down agreement, is it fair to say that RCI 20 revenues jumped? 21 MS. GULLEY: Objection; form. 22 MR. RYAN: Objection. 23 A. Again, I -- I would not think that a percentage 24 basis -- that they jumped that much. So I would be 25 surprised if there's not some other, you know,</p>
<p style="text-align: right;">Page 225</p> <p>1 obviously more familiar with this report than I am. 2 Q. (By Ms. Wedgworth) Well -- 3 MS. GULLEY: Move to strike. It's a joke. 4 I'm sorry. 5 Q. (By Ms. Wedgworth) Going -- going down to the 6 recurring revenue, for the RCI number, it's -- appears 7 to be \$5,910,000 for 2016, whereas the previous year, 8 for 2015, was \$3,104,000. Do you see that? 9 MS. GULLEY: Form. 10 A. I wonder if somebody has a straightedge. I'm 11 77 years old, and my vision is not as good as it used to 12 be. 13 MS. WEDGWORTH: Well, even at my age, which 14 I won't put it on the record -- I highlighted. To keep 15 my -- I'm mean, that's how I read it. But -- but you 16 didn't have the highlight. So I -- what I'm saying is, 17 I need aid, too. 18 MS. GULLEY: Which line are we, I'm sorry. 19 MS. WEDGWORTH: So RCI, "Recurring 20 Revenue." 21 MS. GULLEY: Got it. 22 Q. (By Ms. Wedgworth) Of \$5,910,000 versus 23 \$3,104,000 the previous year. Do you see that? 24 A. Thanks to the straightedge, yes, I do. 25 Q. And that's an increase of 90 percent? Do you</p>	<p style="text-align: right;">Page 227</p> <p>1 customers, you know, third parties that -- that have 2 come under RCI contracts. I don't think it's just those 3 ones that came to us as a result of the stand-down 4 agreement. Again, looking at this, I can't tell. 5 Q. (By Ms. Wedgworth) Has RCI been profitable in 6 2016? 7 MS. GULLEY: Objection; form. 8 A. We -- we don't have profit numbers on RCI. And 9 I need to explain some about -- we don't have any 10 internal cost accounting. 11 Q. (By Ms. Wedgworth) So you don't know if RCI is 12 profitable? 13 MS. GULLEY: Wait a minute. He's going to 14 finish his answer. 15 A. What I'm saying is -- and that's that if RCI is 16 profitable, I have no way of knowing, you know, if it is 17 or how much. The reason why is because we don't have 18 internal cost accounting. And organizationally -- and I 19 realize for somebody that's used to dealing with larger 20 corporations, you know, that sounds kind of crazy. 21 But you have to remember that I came from a 22 very small organization, and I'm very sensitive to, you 23 know, the use -- efficient use of personnel, of 24 overhead. And the cost accounting imposes an 25 overhead -- much like in a law firm, you know, you have</p>

16 (Pages 224 - 227)

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<p style="text-align: right;">Page 228</p> <p>1 to keep time accounting records, you know, billing 2 records and that sort of thing. That takes probably 5 3 or 6 percent. Well, if we were to have cost accounting, 4 it would do the same thing to us. And I, frankly, would 5 rather have the productivity, you know, than the 6 information. 7 And that's the reason why that -- I -- I 8 don't have a number as far as profitability for RCI. 9 It's part of the overall, you know, organizational 10 numbers, because you don't have, you know, one 11 piece that operates as a whole entity. We keep track of 12 sales numbers but not profit numbers, because we don't 13 have any profit numbers. 14 Q. (By Ms. Wedgworth) I'd like to show you what 15 was marked yesterday as Plaintiff's Exhibit 651, on Page 16 17. And yesterday, I think we looked at the footnote on 17 Page 17 that says, "We are expecting an annual revenue 18 of approximately \$30 million from" -- "generated from 19 the CDK Deal." Do you see that? 20 A. Yes, ma'am. 21 Q. Is that a number that you asked to be tracked? 22 A. I did not. 23 Q. Were you interested in the annual revenue 24 concerning the CDK deal? 25 A. Revenue-wise, yes.</p>	<p style="text-align: right;">Page 230</p> <p>1 identification.) 2 Q. (By Ms. Wedgworth) I'd like to show you what's 3 been marked as Plaintiff's Exhibit 661, a one-paged 4 document, Bates-stamped REYMDL00045556. 5 Mr. Brockman, have you had time to review 6 the document? 7 A. Yes, ma'am. 8 Q. Have you seen it before? 9 A. Yes, ma'am. 10 Q. Did you write this email to Mr. Schaefer on or 11 about January 5th, 2016? 12 A. Yes, I did. 13 Q. The subject line, when you write the email, is 14 blank. And then you write, "Bob, From a policy 15 standpoint, the term 'profitability' (and any of its 16 variants) in relation to RCI are never to be uttered in 17 front of anyone inside or outside the company. Your 18 people need to understand this as well. Bob." 19 Is that an accurate statement of what you 20 wrote to Mr. Schaefer and Mr. Lamb? 21 A. Yes, ma'am. And the reason why that I -- I 22 wrote it is because we don't track profitability, 23 because we don't have cost accounting. Without cost 24 accounting, it's impossible to accurately track 25 profitability.</p>
<p style="text-align: right;">Page 229</p> <p>1 Q. And when you say "CDK Deal," what do you refer 2 to? 3 A. That is the -- the stand-down agreement where 4 they agreed to cease and desist hacking our systems. 5 Q. So due to the CDK deal, Reynolds expects annual 6 revenue of approximately \$30 million; is that correct? 7 MS. GULLEY: Objection; form. 8 A. That's what this says -- 9 Q. Is there any reason to -- 10 MS. GULLEY: Let him finish his answer. 11 A. That -- that is not -- not my expectation, 12 though, this is something our chief financial officer, 13 you know, decided he would throw in. But it's -- again, 14 it's not a number that I would routinely track. 15 Q. (By Ms. Wedgworth) Was that a number you were 16 interested in? 17 A. Yes, ma'am. 18 Q. Is that a number that you -- you asked your CFO 19 and/or Mr. Schaefer to analyze and come up with? 20 A. No -- 21 MS. GULLEY: Objection; form. 22 A. -- I did not. I thought -- I just said that 23 I -- I didn't ask, for instance, for this footnote to be 24 inserted. 25 (Exhibit 661 was marked for</p>	<p style="text-align: right;">Page 231</p> <p>1 Secondly, you know, from a policy 2 standpoint, Reynolds is run very, very much like a small 3 company where, you know, the CEO, which is me, and a 4 handful of other people actually understand how 5 profitable the company is. We keep that information 6 very closely held. It's nobody's business. 7 It -- which is completely different than 8 the way Reynolds used to be operated. Of course, as a 9 public company, everybody had access to the -- to the 10 financials, because they were -- they were publicly -- 11 published. 12 I believe that, from an operating 13 standpoint, that that is very deleterious to the 14 successful operation of the business. And the reason 15 why I feel that way is because everything we do, you 16 know, is involved in long-term success. For example, 17 a -- a software package, you know, may take five years 18 to develop, get into the marketplace and have -- become 19 accepted in the marketplace. You know, that -- that's a 20 direct expense to profit. You know, if you don't 21 understand, you know, how the company operates, you're 22 liable to think that things aren't doing well. Well, 23 the reality is, we're developing a lot of software, 24 which costs a lot. 25 So I think that, you know, having profit</p>

17 (Pages 228 - 231)

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<p style="text-align: right;">Page 232</p> <p>1 numbers being thrown around the company -- and</p> <p>2 particularly in this case, where we don't have any cost</p> <p>3 accounting to support what profit might be, is -- is</p> <p>4 dangerous for morale, for the whole organization. I</p> <p>5 have followed that policy religiously. And as a result,</p> <p>6 you know, Reynolds is a -- a -- a very profitable</p> <p>7 company.</p> <p>8 Q. Is there any reason you limited this email</p> <p>9 concerning your prohibition on discussing profitability</p> <p>10 to RCI?</p> <p>11 A. That -- that's where I saw the most recent</p> <p>12 violation.</p> <p>13 Q. What violation did you see?</p> <p>14 A. I saw someone in Bob Schaefer's organization</p> <p>15 mumbling about profitability when they're in no position</p> <p>16 to do so because -- since we have no cost accounting,</p> <p>17 they don't know how profitable it is -- or unprofitable,</p> <p>18 for that matter.</p> <p>19 Q. Who was the person commenting on profitability</p> <p>20 concerning RCI in Mr. Schaefer's organization?</p> <p>21 A. I'm sorry. I don't remember the name of the</p> <p>22 person.</p> <p>23 Q. And what was the comment?</p> <p>24 A. The comment was something in regard to RCI</p> <p>25 being, you know, very, very profitable. Well, there's</p>	<p style="text-align: right;">Page 234</p> <p>1 Q. (By Ms. Wedgworth) In the financial</p> <p>2 statements?</p> <p>3 MS. GULLEY: Form.</p> <p>4 A. They do not follow any financial statements,</p> <p>5 you know, incomes, to that level of detail. You know,</p> <p>6 there is a -- a gross, you know, revenue number that</p> <p>7 goes in the audits -- goes in -- which is where the</p> <p>8 financial statements are.</p> <p>9 Q. (By Ms. Wedgworth) You said the comment that</p> <p>10 someone made in Mr. Schaefer's organization was that RCI</p> <p>11 is very, very profitable; is that correct?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. That -- that's what gave rise to this</p> <p>14 particular email.</p> <p>15 Q. (By Ms. Wedgworth) And you don't recall who</p> <p>16 that person is?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. No, ma'am.</p> <p>19 Q. (By Ms. Wedgworth) I'd like to show you what's</p> <p>20 been marked as Plaintiff's Exhibit 662.</p> <p>21 (Exhibit 662 was marked for</p> <p>22 identification.)</p> <p>23 MS. WEDGWORTH: Can I have one back?</p> <p>24 Q. (By Ms. Wedgworth) Mr. Brockman, as you read,</p> <p>25 I'm going to let you know that I'm going to reference</p>
<p style="text-align: right;">Page 233</p> <p>1 no way to know, in the first place. And secondly, the</p> <p>2 discussion of profits openly at that level is -- you</p> <p>3 know, we don't do that.</p> <p>4 Q. But you're certainly interested in RCI revenue;</p> <p>5 correct?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. Yes, ma'am. And the reason why I'm interested</p> <p>8 in RCI revenue, particularly in regards to the CDK</p> <p>9 stand-down agreement, is because CDK's attitude and, you</p> <p>10 know, talk and discussion in the marketplace regarding</p> <p>11 data security, and specifically our data security</p> <p>12 procedures, has been very hurtful over the years. And</p> <p>13 I'm looking forward to, you know, recovering from some</p> <p>14 of the hurt that we endured over a number of years.</p> <p>15 Q. (By Ms. Wedgworth) So you specifically do want</p> <p>16 to track revenue at RCI as it relates to the stand-down</p> <p>17 agreement with CDK?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. Yes, ma'am. I made inquiries about that.</p> <p>20 Since that's over with now, it's of less importance, you</p> <p>21 know, currently. I -- I really don't follow it that</p> <p>22 much anymore. But during this time period, I was.</p> <p>23 Q. (By Ms. Wedgworth) Well, Reynolds currently</p> <p>24 follows that; correct?</p> <p>25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 235</p> <p>1 questions to the second page of the document where --</p> <p>2 where you write in it.</p> <p>3 Mr. Brockman, have you had a chance to</p> <p>4 review the document?</p> <p>5 A. I'm almost there. Yes, ma'am.</p> <p>6 Q. And on the second page, where you wrote an</p> <p>7 email in response to Mr. Schaefer and Mr. Schaefer wrote</p> <p>8 you back, did you write this email in ordinary course of</p> <p>9 your business around August 9th, 2016?</p> <p>10 A. Okay. Is this -- can you point out</p> <p>11 specifically --</p> <p>12 Q. Your email, kind of in the middle of the page.</p> <p>13 A. Okay. It's the one in bold print?</p> <p>14 Q. Yes.</p> <p>15 A. Okay.</p> <p>16 Q. And you wrote it to Mr. Schaefer on about</p> <p>17 August 9, 2016?</p> <p>18 A. Yes, ma'am. That's -- that's what the email</p> <p>19 says. I don't remember specifically but, you know,</p> <p>20 that's what it says.</p> <p>21 Q. And the email says, "I am still needing an</p> <p>22 answer as to where we stand on the amount of revenue</p> <p>23 that we were supposed to realize out of the CDK deal."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

18 (Pages 232 - 235)

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<p style="text-align: right;">Page 236</p> <p>1 Q. And the CDK deal you're referring to there is 2 what you call the "stand-down agreement"?</p> <p>3 A. That's correct.</p> <p>4 Q. And you're asking Mr. Schaefer, here, to answer 5 a question you -- you're waiting on concerning the 6 revenue realized from that stand-down deal; is that 7 correct?</p> <p>8 MS. GULLEY: Objection; form.</p> <p>9 A. That's correct. And as I pointed out 10 previously, the reason why I'm interested in that is 11 because I believe that we suffered greatly from ADP's 12 actions over the years. And one of -- one of the 13 reasons why I'm concerned about this revenue is because 14 this is a recompense for the things that they did to us. 15 And I'm -- I'm curious as to this coming out at -- as 16 the way that it was planned to come out.</p> <p>17 Q. (By Ms. Wedgworth) Meaning it was planned to 18 come out to -- to generate revenue?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. That's -- that's correct. That was one of 21 our -- our motivations for, you know, the whole 22 stand-down agreement in the first place. It was to 23 stop, you know, ADP from hacking in, banditing our 24 systems and to, you know, recompense us for the damage 25 they've done to us over the years on the subject of data</p>	<p style="text-align: right;">Page 238</p> <p>1 A. Teams? There's really only one team award 2 that's been in place for quite a while, which is a 3 department of the year. And we give that out twice. We 4 give it once in Dayton and we give it once in Houston.</p> <p>5 Q. Dayton is toward the end of the year?</p> <p>6 A. No, they're both -- one of them is on a 7 Wednesday in November and on a Friday, the following 8 Friday.</p> <p>9 Q. And is there any monetary compensation for the 10 team with -- that goes with that award?</p> <p>11 A. No.</p> <p>12 Q. Is there any trip or -- or benefit to that 13 award for the team?</p> <p>14 A. There -- there's no direct prize or -- you 15 know, as there are with some of our awards, individual 16 awards. This particular award, there's no prize. 17 There's a plaque. You know, there's no trip. However, 18 people that are in that department, especially our key 19 people in that department are -- in due course, and -- 20 and because it's the right thing to do, they will 21 inevitably, you know, receive better salary increases 22 than -- than they otherwise might. It's a very 23 prestigious award to get, the department of the year.</p> <p>24 Q. In Plaintiff's Exhibit 663, is this an email 25 you received from Mr. Schaefer around November 10, 2016</p>
<p style="text-align: right;">Page 237</p> <p>1 security.</p> <p>2 MS. GULLEY: Thank you. Robert emailed me 3 and said he was disconnected. Just letting you know.</p> <p>4 MS. WEDGWORTH: Can we go off the record?</p> <p>5 THE VIDEOGRAPHER: This is the end of Media 6 1. The time is 11:02 a.m., and we are off the record. 7 (Short recess 11:02 to 11:09 a.m.)</p> <p>8 THE VIDEOGRAPHER: This is the beginning of 9 Media 2. The time is 11:09 a.m. We're back on the 10 record.</p> <p>11 EXAMINATION (Continuing) 12 (Exhibit 663 was marked for 13 identification.)</p> <p>14 BY MS. WEDGWORTH:</p> <p>15 Q. Mr. Brockman, I'll show you what's been marked 16 as Plaintiff's Exhibit 663. Have you had an opportunity 17 to review it?</p> <p>18 A. I'm almost done. Yes.</p> <p>19 Q. Are there any awards at Reynolds that are given 20 to reward high-performing teams?</p> <p>21 A. Yes, there are.</p> <p>22 Q. What are those awards?</p> <p>23 A. The rewards are numerically, you know, 24 principally, individual awards.</p> <p>25 Q. I asked just for teams, team awards.</p>	<p style="text-align: right;">Page 239</p> <p>1 where he writes to you to make a pitch that his team win 2 that 2016 team -- team award.</p> <p>3 A. Yes. That's what it is.</p> <p>4 Q. And did you receive this email?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. The second paragraph of this email that 7 Mr. Schaefer writes to you says, "This organiza-" -- 8 well, the first paragraph says, "Several years ago 9 (about 9) you met with the Data Services team" -- which 10 is also known as DSV; correct?</p> <p>11 A. That's correct.</p> <p>12 Q. -- "you met with the Data Services team and we 13 discussed our role with[in] the company. At this [the] 14 time, we were just starting the security enhancements, 15 RCI was just in it's infancy in the new company. We 16 discussed our role and at the time you quoted the 17 following to the team:</p> <p>18 "This organization is like the CIA, I 19 (meaning you) understand what this organization is and 20 will be doing but we cannot communicate to the rest of 21 organization what specifically is being done, how it is 22 being done and any the successes that are accomplished. 23 You will receive[d] medals behind the scenes. Someday, 24 we will be able to communicate and celebrate your 25 successes. I can assure you of that!"</p>

19 (Pages 236 - 239)

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<p style="text-align: right;">Page 240</p> <p>1 Did you say that?</p> <p>2 A. Yes, I did.</p> <p>3 Q. You can put that document aside. Did</p> <p>4 Mr. Schaefer's team win the 2016 team award?</p> <p>5 A. I honestly can't remember. I don't -- I don't</p> <p>6 think they did.</p> <p>7 Q. Has Mr. Schaefer's DSV team ever won the award?</p> <p>8 A. I don't remember clearly yes or no, but -- I --</p> <p>9 my belief would be, no.</p> <p>10 Q. Mr. Schaefer would know for sure, I presume?</p> <p>11 A. I know for sure he would. And I might add, I</p> <p>12 get a number of letters like this from all corners of</p> <p>13 the company.</p> <p>14 MS. WEDGWORTH: Why don't we take a break</p> <p>15 now. Can we take a 10-minute break?</p> <p>16 MS. GULLEY: That's fine.</p> <p>17 THE VIDEOGRAPHER: The time is 11:15 a.m.,</p> <p>18 and we're off the record.</p> <p>19 (Short recess 11:15 to 11:31 a.m.)</p> <p>20 THE VIDEOGRAPHER: Back on the record at</p> <p>21 11:31 a.m.</p> <p>22 EXAMINATION (Continuing)</p> <p>23 (Exhibit 664 was marked for</p> <p>24 identification.)</p> <p>25 BY MS. WEDGWORTH:</p>	<p style="text-align: right;">Page 242</p> <p>1 subject is: "Draft ASB: New Features for MMS Data</p> <p>2 Synchronization (Sync) - Review Due by April 26." Do</p> <p>3 you recognize this email?</p> <p>4 A. Yes, ma'am. But I -- I -- I'm sitting here</p> <p>5 searching my mind, and I -- I don't recall, frankly,</p> <p>6 what I was talking about. It was talking about</p> <p>7 something having to do with Data Sync, but what it's</p> <p>8 talking about, I don't remember.</p> <p>9 Q. Well, Mr. Bauer writes to you and others,</p> <p>10 "Please review the attached draft ASB announcing New</p> <p>11 Features for MMS Data Synchronization (Sync). Forward</p> <p>12 any edits/comments to my attention."</p> <p>13 And then you respond, "Tom, This is</p> <p>14 absolutely not to be released. I have no idea why it</p> <p>15 was ever built. The policy all along has been to not</p> <p>16 make further enhancements to MMS that make the dealer's</p> <p>17 DMS data more valuable - so it is easier to leave us and</p> <p>18 not feel the pain. Notify all of those concerned.</p> <p>19 Bob."</p> <p>20 Did you write that?</p> <p>21 A. Yes, ma'am, I did. But the point I'm trying to</p> <p>22 make is -- is whatever the feature was, I can't tell</p> <p>23 you. I don't remember.</p> <p>24 Q. Is it fair to say that you did not approve of</p> <p>25 further MMS enhancements to the dealer's DMS data?</p>
<p style="text-align: right;">Page 241</p> <p>1 Q. Mr. Brockman, I'll show you what's been marked</p> <p>2 as Plaintiff's Exhibit 664.</p> <p>3 A. May I tell you the news first?</p> <p>4 Q. Yes. Well, off the record, then.</p> <p>5 MS. GULLEY: Let's just stay on the record.</p> <p>6 We'll do this in a little bit. Let's proceed with --</p> <p>7 MS. WEDGWORTH: Sadly, we're on the record.</p> <p>8 So if you will take a look at the exhibit.</p> <p>9 (Brief discussion.)</p> <p>10 A. 664 is the one we're supposed to be looking at</p> <p>11 it?</p> <p>12 Q. (By Ms. Wedgworth) Yes.</p> <p>13 MS. GULLEY: Thank you.</p> <p>14 Q. (By Ms. Wedgworth) A document Bates-stamped</p> <p>15 REYMDL00333091 through 092. And Mr. Brockman, as you</p> <p>16 review the document, I'll let you know my questions</p> <p>17 relate to the second page of the document.</p> <p>18 Mr. Brockman, have you had a chance to</p> <p>19 review --</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. -- Exhibit 664? Did you receive and write this</p> <p>22 email on or about April 19, 2016?</p> <p>23 A. Yes, that -- I believe that's what it says.</p> <p>24 Q. And if we start on the second page of the email</p> <p>25 where Mr. Bauer writes to you and some others. The</p>	<p style="text-align: right;">Page 243</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. What -- that's correct. What -- what's</p> <p>3 happening here is --</p> <p>4 Q. (By Ms. Wedgworth) Actually, there's no</p> <p>5 question pending.</p> <p>6 Is it fair to say that the policy at</p> <p>7 Reynolds was to not make further enhancements to the MMS</p> <p>8 to make the dealer's data more valuable?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. That's what I'm -- I'm endeavoring to explain.</p> <p>11 Q. (By Ms. Wedgworth) And I just asked a</p> <p>12 yes-or-no question.</p> <p>13 MS. GULLEY: You can answer the question.</p> <p>14 MR. RYAN: I object to cutting the witness</p> <p>15 off.</p> <p>16 MS. GULLEY: Go ahead and answer.</p> <p>17 A. Well, okay. There -- there's two databases.</p> <p>18 There's -- there's the DMS database, which every</p> <p>19 dealership has. MMS is -- is a marketing database,</p> <p>20 which we sell under the Naked Lime Marketing MS tag, and</p> <p>21 these databases are -- are different in -- in the amount</p> <p>22 of data that they contain.</p> <p>23 As we, you know, make investments</p> <p>24 to improve the product offering for Naked Lime</p> <p>25 Marketing, which is the MMS database, we want to do that</p>

20 (Pages 240 - 243)

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<p style="text-align: right;">Page 244</p> <p>1 so that product will sell more. That's -- that's what 2 our investment is -- is, you know, based upon. 3 What's happened here appears -- and that's 4 we have done something that's an enhancement to MMS. 5 And for some reason, you know, we have, in the 6 synchronization process, you know, made that -- made 7 that information, which we're buying and building on our 8 own, we're moving that over to the dealership's DMS. 9 And we don't intend to do that. So what's happened 10 is -- is the development is going to stray from what is 11 logical from a business standpoint. 12 Q. (By Ms. Wedgworth) You -- so the developer -- 13 did you say "developer" or "development"? 14 A. Somebody in the development area. 15 Q. And this is your email reining that 16 development -- or developer back in? 17 MS. GULLEY: Form. 18 A. That's correct. It says, "This is absolutely 19 not to be released." 20 Q. (By Ms. Wedgworth) Mr. Brockman, I'd like to 21 show you what's been marked as Plaintiff's Exhibit 665. 22 (Exhibit 665 was marked for 23 identification.) 24 Q. (By Ms. Wedgworth) Have you had a chance to 25 review Plaintiff's Exhibit 665?</p>	<p style="text-align: right;">Page 246</p> <p>1 look like is -- and that's they come in in the middle of 2 the night. And we're -- we're very suspicious about 3 people coming in in the middle of the night. That's 4 just doesn't look like ordinary business use of the 5 software. It looks like something foreign. 6 And what they're saying is -- and that's 7 that we want them to enter CAPTCHA individually, which 8 has been a -- a pretty successful way to turn back, you 9 know, interlopers. They even have gone so far -- and 10 this is hard to believe -- they'll have the software -- 11 their software, when they come across CAPTCHA, which 12 they can't fix with their software -- they can't detect. 13 You know, when you look at a CAPTCHA, a 14 series of pictures. You know, humans can pick them out 15 pretty well, so what they'll do is -- and that's they'll 16 send a quickie message to some place in India. And some 17 place in India, somebody is staying up all night or all 18 day and, you know, they'll look at the CAPTCHA on their 19 screen and they can answer it. And then they -- they 20 send that back to -- where all of this is occurring in 21 the U.S. And they get in. I mean, it's -- it's -- 22 they've gone to that extreme to try and dig their way 23 in. 24 Q. So in these security improvements that 25 you've -- want Reynolds to implement, one of those</p>
<p style="text-align: right;">Page 245</p> <p>1 A. I'm just about there. Yes, ma'am. 2 Q. Did you write this email on or -- and its 3 attachment on or about May 8, 2016? 4 A. I -- I'm sorry. I'm not seeing where -- where 5 I -- I wrote it. Unless it's this little short email 6 down at the bottom of Page 1 that you're talking about. 7 Q. Yes. Yes. 8 A. Yes, I understand and I -- I did write that. 9 Q. Page 2 of the document, did you write this as 10 well, dated May 9, 2019, entitled "Security 11 Improvements"? 12 A. I don't think I actually wrote that. I think 13 that it was written by somebody else, and I attached it 14 on to my email. 15 Q. And in your email that has no subject, you 16 write, "This is what needs to be done"; is that correct? 17 A. That's correct. 18 Q. And in the attachment, which is entitled 19 "Security Improvements," are these security improvements 20 that you wanted Reynolds to implement in the May 2016 21 time frame? 22 A. Yes, ma'am. Specifically, what -- what's 23 involved here is -- and that's that we're endeavoring, 24 as part of our research, to figure out what third-party 25 hackers, bandits, look like. And one of the things they</p>	<p style="text-align: right;">Page 247</p> <p>1 security improvements is CAPTCHA would have to be 2 entered individually for each report to be exported; 3 correct? 4 A. That's correct. 5 Q. And the other security improvement would be 6 that no exports could be done from 7 p.m. Saturday until 7 8 a.m. Monday; correct? 8 A. Correct. And it says, you know, "Bulk export 9 functionality has been removed for data security 10 reasons." That's the error message. 11 Q. And the additional time limit, also, was that 12 no exports could be done, of any kind, from 7 p.m. to 8 13 a.m.; correct? 14 A. That's correct. 15 Q. And Reynolds implemented these security 16 improvements at the end of May; correct? 17 A. I'm not sure, you know, what got done when. 18 I'm not -- I'm not in the loop at that part. 19 Q. Is it fair to say, when these security 20 improvements were implemented, your main concern was 21 security? 22 A. Absolutely. 23 (Exhibit 666 was marked for 24 identification.) 25 Q. (By Ms. Wedgworth) I'd like to show you what's</p>

21 (Pages 244 - 247)

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<p style="text-align: right;">Page 248</p> <p>1 been marked as Plaintiff's Exhibit 666.</p> <p>2 Mr. Brockman, have you had a chance to</p> <p>3 review Plaintiff's Exhibit 666?</p> <p>4 A. Yes.</p> <p>5 Q. And is this an email you received and wrote in</p> <p>6 May 31, 2016?</p> <p>7 A. Yes.</p> <p>8 Q. And this email concerns security enhancements;</p> <p>9 correct?</p> <p>10 A. What it concerns is -- and that's that, as I've</p> <p>11 testified, you know, previously -- yesterday, that the</p> <p>12 detection of the techniques that, you know, bandits use</p> <p>13 to get in our system is not a perfect process. In other</p> <p>14 words, we can't look at what they're doing and say,</p> <p>15 "Okay, that's a bad guy and, you know, what's happening</p> <p>16 is wrong."</p> <p>17 We -- in the course of continuing to</p> <p>18 improve our -- our security controls, we make them a</p> <p>19 little too tight, and it's because there's things</p> <p>20 happening that we don't -- we had not anticipated. For</p> <p>21 instance, here it talks about the fact that, you know,</p> <p>22 people come in early to run reports. And I never</p> <p>23 perceived that that would actually be happening.</p> <p>24 Q. You never understood that?</p> <p>25 A. No. I did not understand in the -- in the</p>	<p style="text-align: right;">Page 250</p> <p>1 A. Yeah. Mr. Bates is a -- a -- a credible</p> <p>2 person.</p> <p>3 Q. So it's fair to say this list below is of major</p> <p>4 accounts at Reynolds?</p> <p>5 A. Yeah, based on Dave Bates' opinion, yeah, I</p> <p>6 would agree. His opinion would be a good opinion.</p> <p>7 Q. And so the major accounts at Reynolds were</p> <p>8 given exemptions for the new security enhancements; is</p> <p>9 that correct?</p> <p>10 MR. RYAN: Object to form.</p> <p>11 A. No. Just these specific ones.</p> <p>12 Q. (By Ms. Wedgworth) The major accounts listed</p> <p>13 in Exhibit 666 --</p> <p>14 A. Yes.</p> <p>15 MS. GULLEY: Objection.</p> <p>16 Q. (By Ms. Wedgworth) -- are the ones who received</p> <p>17 exemptions to the security enhancements?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. Just the people on this list.</p> <p>20 Q. (By Ms. Wedgworth) Do you recall, when the</p> <p>21 security enhancement was put into place, it was done</p> <p>22 over the weekend?</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. I'm sorry. I -- I don't recall and I -- I</p> <p>25 would not know.</p>
<p style="text-align: right;">Page 249</p> <p>1 dealership world, that people would come in at 5 a.m. in</p> <p>2 the morning and run reports. I just didn't perceive</p> <p>3 that. And sure enough, that was a little too tight.</p> <p>4 And so what we're doing here is -- and that's where</p> <p>5 we're -- we're issuing, you know, temporary rollbacks</p> <p>6 for specific dealers of -- of that particular security</p> <p>7 change until such time as we can, you know, make it an</p> <p>8 overall change to -- to the -- to the security process.</p> <p>9 Q. And you gave temporary exemptions to all of</p> <p>10 these major accounts listed in Exhibit 666 with regard</p> <p>11 to your security improvements; correct?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. These are -- these are the people that -- you</p> <p>14 know, that call our support center and -- and register,</p> <p>15 you know, what we consider to be a valid complaint. And</p> <p>16 therefore, these people, we issued a -- a temporary</p> <p>17 bypass to this particular security change.</p> <p>18 Q. (By Ms. Wedgworth) And the groups listed here</p> <p>19 are major accounts; is that a fair statement?</p> <p>20 A. I've not looked at each specific one.</p> <p>21 Q. Well, you don't have any reason to believe that</p> <p>22 Mr. Bates is inaccurate when he says, "Terry and Willie,</p> <p>23 Below is a list of Major Accounts who have expressed</p> <p>24 frustration and disappointment with the changes that</p> <p>25 have occurred." Do you see that?</p>	<p style="text-align: right;">Page 251</p> <p>1 Q. (By Ms. Wedgworth) Do -- do you recall that</p> <p>2 dealers were not informed of these security enhancements</p> <p>3 in advance?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. I would say it's our general policy not to</p> <p>6 announce security enhancements in advance.</p> <p>7 Q. (By Ms. Wedgworth) With regard to these</p> <p>8 security enhancements that were put in place at the end</p> <p>9 of May 2016, they were ultimately withdrawn, weren't</p> <p>10 they?</p> <p>11 MS. GULLEY: Form.</p> <p>12 A. I'm not in a position to be able to say. I --</p> <p>13 I don't know.</p> <p>14 Q. (By Ms. Wedgworth) Do you recall during this</p> <p>15 time period that Reynolds received a lot of complaints</p> <p>16 from dealerships concerning the -- the security</p> <p>17 enhancements that Reynolds released at this time?</p> <p>18 A. Ma'am, I'm not aware of -- you know, of what</p> <p>19 went on in that period of time, other than if I would be</p> <p>20 notified, such as this email right here.</p> <p>21 Q. You would be notified?</p> <p>22 A. I would only be notified of situations like</p> <p>23 this one here.</p> <p>24 Q. Would Mr. Schaefer be notified on a -- on a</p> <p>25 normal basis concerning this?</p>

22 (Pages 248 - 251)

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<p style="text-align: right;">Page 252</p> <p>1 A. Yeah, he would be more likely to than I. 2 (Exhibit 667 was marked for 3 identification.) 4 Q. (By Ms. Wedgworth) Mr. Schaefer, I'll show you 5 what's been marked as Plaintiff's Exhibit 667. 6 A. You mean me? 7 Q. Mr. Brockman. 8 A. Okay. 9 Q. I'm trying to see if I can outdo Mr. Nemelka. 10 Mr. Brockman, have you reviewed Plaintiff's 11 Exhibit 667? 12 A. Not quite. It's five pages. 13 Q. The good news is the last two are screenshots, 14 I think. 15 A. You're right. 16 Q. Have you had a chance to review Exhibit 667? 17 A. Yes, ma'am. 18 Q. And did you receive and write this email on or 19 about May 31st, 2016? 20 MS. GULLEY: Form. 21 A. Yes, ma'am. 22 Q. (By Ms. Wedgworth) And in all your emails that 23 you wrote, do you try to be truthful and accurate? 24 A. Yes, ma'am. 25 Q. On the first page, where the subject is "Data</p>	<p style="text-align: right;">Page 254</p> <p>1 A. I don't know specifically what's going on 2 there, but my decision was based on what takes up most 3 of the second page. It's -- this one was clearly worthy 4 of an exception, period. 5 Q. (By Ms. Wedgworth) So you granted this 6 exception; is that correct? 7 MS. GULLEY: Form. 8 A. Yes, ma'am. And I -- the -- I don't know -- 9 this happened back in 2016, two -- two and a half years 10 ago. I don't know exactly what the state of affairs is 11 regarding data security in this particular area, but I 12 do know that, you know, this has quieted down and is no 13 longer an issue. And Ms. Lisa Wood continues to be our 14 friend and good customer. 15 Q. (By Ms. Wedgworth) Well, on the "quieted down 16 and no longer an issue," let me show you what we're 17 marking as Plaintiff's Exhibit 668. 18 (Exhibit 668 was marked for 19 identification.) 20 Q. (By Ms. Wedgworth) Have you reviewed 21 Plaintiff's Exhibit 668? 22 A. Not quite through, but so far I'm really 23 enjoying it. I'm serious. Yes, ma'am. 24 Q. Did you receive and write this email on or 25 about June 2nd, 2016?</p>
<p style="text-align: right;">Page 253</p> <p>1 Security impact," and the earlier emails are May 31st, 2 with your email being May 31st. And then Mr. Schaefer 3 ultimately responding on June 1st, where you -- where 4 the email from Mr. Agan, before yours, says, "Bob, I'm 5 hearing from several AVPs that whatever action we took 6 recently has got a number of customers quite upset. 7 There is an email from the IT Support Director for John 8 Eagle dealerships below. Dan." Are you familiar with 9 John Eagle dealerships? 10 A. Not very much beforehand but, certainly, this 11 one here -- this dear lady -- and I'll refer to her as a 12 "dear lady" -- "I leave my house before 5am to get to 13 the store before 6am." And -- and she's coming in to be 14 there at 6 a.m., and the list of reports that she's 15 running manually is remarkable. She's clearly a very 16 dedicated person. 17 Q. Referring to your email, on the front page, 18 about her remarkable abilities, you write, "Bob, This" 19 is one -- "This one is worthy of an exception even 20 considering the CarFax 3rd party usage." Do you see 21 that? 22 A. Yes. 23 Q. Do you know what the CarFax third-party usage 24 reference is? 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 255</p> <p>1 A. Yes, I did. 2 Q. And you write to Mr. Schaefer, "Please see 3 changes that I have made." And this attachment is 4 "DRAFT - CAPTCHA Suspension Talk Track." 5 If we go to the second page of the 6 document, "Sales Breaking News," it says, "We have 7 suspended the CAPTCHA and time restriction updates 8 released earlier this week. Read below for the 9 authorized talk track to discuss with customers." 10 Does this refresh your recollection that in 11 early June 2016, Reynolds suspended the security 12 enhancements they had put in place late May? 13 MS. GULLEY: Objection; form. 14 A. Yes. That -- that is correct. And certainly, 15 you know, the whole rest of what I wrote here is -- is 16 worth going through. 17 Q. (By Ms. Wedgworth) I just want to focus on the 18 last bullet point to get to the end of the story. 19 "Effective immediately the two enhancements regarding 20 restricted hours and CAPTCHA have been suspended." Were 21 both suspended on or around June 1, 2016? 22 MS. GULLEY: Object to the form and the 23 instruction. 24 A. I'm not aware of the exact date that that was 25 done, but I would presume sometime in that time frame.</p>

23 (Pages 252 - 255)

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<p style="text-align: right;">Page 256</p> <p>1 Q. (By Ms. Wedgworth) And in that bullet 2 referencing two enhancements, that references the 3 security enhancements; correct? 4 A. I think it represents two of the security -- 5 security enhancements and, probably, it's not likely all 6 of them because, you know, we do them in batches. We 7 don't do them individually. So there -- there's more 8 than likely others which, you know, stayed in place. 9 Q. This does not reference any, does it? 10 MS. GULLEY: Form. 11 A. No, it does not. 12 Q. (By Ms. Wedgworth) So this "Sales Breaking 13 News" talking points references two data security 14 enhancements that were being suspended; correct? 15 MS. GULLEY: Objection; form. 16 A. Yeah, but it primarily references the reasons 17 why that we do what we do and the reasons why we operate 18 the way we do. 19 (Exhibit 669 was marked for 20 identification.) 21 Q. (By Ms. Wedgworth) I'd like to show you what 22 we've marked as Plaintiff's Exhibit 669. Mr. Brockman, 23 have you had a chance to review Plaintiff's Exhibit 669? 24 A. I'm just about there. Yes. 25 Q. Did you receive and write this email on or</p>	<p style="text-align: right;">Page 258</p> <p>1 will now be in real-time, which will enable the system 2 to identify upgrade opportunities in the timeliest 3 fashion," which makes the AutoAlert product a whole of a 4 lot better. And so we're doing a lot more than just 5 providing data to them. We're actually inserting 6 functionality into our operating software that makes 7 their product better. 8 Q. (By Ms. Wedgworth) In the top email, you 9 write, "They are clearly over the line. Exercise our 10 termination for convenience." Is this you request- -- 11 ordering that AutoAlert's contract be terminated? 12 A. That's correct. 13 Q. And are you ordering that their contract be 14 terminated due to the fact that they're informing 15 dealerships of their monthly data integration fee that 16 they are passing along to the dealers? 17 MS. GULLEY: Objection; form. 18 A. That's correct. That is clearly prohibited in 19 our contract. Now, they are perfectly within their 20 rights to disclose the cost of their -- of their 21 product, you know, the price that they charge the 22 dealer. You know, they are not permitted, underneath 23 our contract, to -- you know, publish the price that we 24 charge them. 25 Q. (By Ms. Wedgworth) You would agree with me</p>
<p style="text-align: right;">Page 257</p> <p>1 about August 12th, 2016 that is Plaintiff's Exhibit 669? 2 A. Yes, ma'am. 3 Q. I take it you are familiar with AutoAlert as a 4 third-party vendor? 5 A. In name only. I've never been to their place. 6 Never talked to them. 7 Q. Does the Reynolds contract with vendors prevent 8 the vendor from disclosing data integration fees to the 9 dealerships? 10 MS. GULLEY: Objection; form. 11 A. That -- that contract specifies that they -- 12 they cannot specifically, you know, cite what our 13 monthly fee is to them, which is what appears to have 14 occurred in this particular case. 15 Q. (By Ms. Wedgworth) And you have -- 16 Mr. Strawsburg writes to you about this particular case 17 of AutoAlert? 18 A. Yes. 19 MS. GULLEY: Objection; form. 20 A. And I'd like to point out as well, this is not 21 an ordinary RCI, you know, application. It was a very 22 special one where it actually, you know, requires us to, 23 you know, insert into our mainline software the 24 functionality that they're asking here. 25 Because they -- they cite "Repair orders</p>	<p style="text-align: right;">Page 259</p> <p>1 that the vendor market is compet- -- is a competitive 2 market; correct? 3 A. When it comes to car sales, yes, that's 4 necessarily true. 5 Q. I'd like to show you what's been marked as 6 Plaintiff's Exhibit 670. 7 (Exhibit 670 Brockman was marked for 8 identification.) 9 Q. (By Ms. Wedgworth) Mr. Brockman, have you 10 reviewed Exhibit 670 Brockman? 11 A. Yes, ma'am. 12 Q. And did you receive and write this email around 13 August 12th, 2016? 14 A. Yes, ma'am. 15 Q. And -- and if you will note the previous 16 Exhibit, 669, was on the same day as well. 17 A. That -- that's correct. And since there's 18 reference to that -- that's important -- is the reason I 19 just pulled it back out of the pile, so I can open it up 20 and look at it again. 21 Q. So at this time, meaning August 12th, 2016, did 22 AutoAlert have a "real-time service drive lead feature"? 23 A. No, they did not. They were not even 24 certified. They were not even part of RCI at that 25 point.</p>

24 (Pages 256 - 259)

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<p style="text-align: right;">Page 260</p> <p>1 Q. Your email at the top says, "Take away the 2 RO's" -- RO's means repair orders? 3 A. Yes. That's what it means, but what -- what's 4 important is -- is the paragraph just below that, in 5 bold, where it says, "They're not even certified???" 6 Good God. And now yet in -- in their June 27th, you 7 know, notification, you know, they're -- they're 8 bragging about the fact they're now associated with -- 9 we've "completed the process to become RCI certified 10 with your DMS provider, Reynolds & Reynolds. As you 11 know, the RCI certification program was designed to 12 ensure the highest level of data security for you and 13 your customers, and our certification has been a request 14 by many of our dealers." 15 But they haven't got it. 16 Q. Well, they do have -- real time has been opened 17 for them, right? 18 MS. GULLEY: Objection; form. 19 A. No. 20 Q. (By Ms. Wedgworth) Well, you -- you say, "Take 21 away the RO's opened real time," so something must be in 22 place for AutoAlert; correct? 23 MS. GULLEY: Objection; form. 24 A. What's happening is -- certainly appears, you 25 know, from -- from the documents in front of me --</p>	<p style="text-align: right;">Page 262</p> <p>1 yet -- it it's not finished, they're not RCI certified. 2 We have decided rather than to go forward as we had 3 planned, based upon their actions, we're not. 4 Q. (By Ms. Wedgworth) Did AutoAlert become RCI 5 certified? 6 A. I'm not aware of whether they have or not. 7 I -- I would presume they did, but I don't know. 8 Q. Mr. Brockman, have any data breaches of dealer 9 DMS occurred in the past three years? 10 MS. GULLEY: Objection; form. 11 A. I believe so. There's -- there's one that I 12 recall involving DealerBuilt that was pretty 13 substantial. 14 Q. (By Ms. Wedgworth) Is that the only one you 15 recall? 16 MS. GULLEY: Objection; form. 17 A. Of size, you know, that's the only one that, 18 you know, that was a very, very good-sized one. It was 19 huge. 20 (Exhibit 671 Brockman was marked for 21 identification.) 22 Q. (By Ms. Wedgworth) Mr. Brockman, I'll show you 23 what's been marked as Plaintiff's Exhibit 671. 24 Mr. Brockman, have you had time to review Plaintiff's 25 Exhibit 671?</p>
<p style="text-align: right;">Page 261</p> <p>1 that they are using it from a sales standpoint the fact 2 that they are certified -- RCI certified. And they're 3 not RCI certified. They haven't achieved certification 4 yet. 5 And so therefore, I'm saying that, going 6 forward, for a third-party to do this means that -- that 7 they're not really quite straightforward-kind-of folks. 8 And therefore, what we're going to do is -- and that's 9 we're not going to give them their real-time repair 10 order opening, because that is a special thing that's 11 over and above what a normal RCI -- normal RCI would be 12 just for data movement. 13 The real-time opening of repair orders 14 means that they're now into our mainline software, and 15 they're writing on our software to -- to feed to them 16 the repair order has just been opened, real time. And 17 what's happening is -- and that's that I'm -- I'm 18 directing Bob Schaefer: When somebody is -- is 19 basically being dishonest with us, there's no way we're 20 going to let them into our main software. 21 Q. (By Ms. Wedgworth) When you write, "Take away 22 the ROs opened real time from them," you've already 23 given them something; is that correct? 24 MS. GULLEY: Objection; form. 25 A. The contract which has obviously not been done</p>	<p style="text-align: right;">Page 263</p> <p>1 A. Not quite yet, ma'am, but very close. Yes, 2 ma'am. 3 Q. Did you receive this email on or about June 4 20th, 2017? 5 A. Yes. 6 Q. Do you recall if you approved this deal? 7 A. I don't have any direct recollection of that. 8 As I read it, it's probably likely that I did, because 9 the ShowroomMagnet actually is -- is a -- is part of the 10 company that we acquired. It's a product. And so 11 therefore, doing something for that particular product 12 area would be something that I would likely approve. 13 Q. Naked Lime -- ShowroomMagnet is part of the 14 Naked Lime entity? 15 MS. GULLEY: Objection; form. 16 A. Yes. What ShowroomMagnet is, as I recall, 17 it -- it is a marketing system which is employed to 18 motivate people that come in and get a test drive. And 19 to basically show up in the showroom and talk to a 20 salesperson and take a test drive for which they get 21 a -- a small, you know, cash payment. And it's -- it 22 has been found to be fairly decently and effective way 23 to get people to come into the dealership and take a 24 test drive. 25 Q. (By Ms. Wedgworth) And the situation described</p>

25 (Pages 260 - 263)

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<p style="text-align: right;">Page 264</p> <p>1 at the top, "ShowroomMagnet has been utilizing a data 2 broker for the extraction of DMS transactional data for 3 clients. The purpose of this data is for market area 4 evaluations." 5 Did Reynolds, with regard to 6 ShowroomMagnet, agree to eliminate the use of a data 7 broker to access CDK DMS? 8 MS. GULLEY: Objection; form. 9 A. I -- I don't recall, you know, that specific 10 action. But I know it was our intention to, where 11 possible, use -- get -- get data feeds directly from 12 CDK. And my reason for doing that is -- and that's 13 that, as I think is -- is readily apparent, there's some 14 substantial potential liabilities involved. Anytime 15 that you start, you know, moving data around, that 16 potentially has personal- -- personally identifiable 17 information. I want to be doing business with people 18 that, if there is some kind of lawsuit, they can -- if 19 they're found liable, you know, that they can pay the 20 judgment. 21 Q. Do you know that the data broker mentioned here 22 was Authenticom? 23 MS. GULLEY: Objection; form. 24 A. I'm not aware of that. This is a general 25 policy decision.</p>	<p style="text-align: right;">Page 266</p> <p>1 MS. GULLEY: Objection. 2 Q. (By Ms. Wedgworth) I'm sorry? 3 A. That's an integral part of it. 4 Q. Does Reynolds currently allow third part- -- 5 any third party to have real-time repair order 6 functionality? 7 MS. GULLEY: Objection; form. 8 A. When you talk about functionality, I know we 9 have some interfaces that allow look-only repair work. 10 But there is -- you know, there's no, outside of our 11 application software, actually creating repair orders or 12 updating repair orders. 13 Q. (By Ms. Wedgworth) So is that a "no" to the 14 question? 15 MS. GULLEY: Objection; form. 16 A. No. I think my answer is my answer. And I 17 understand that's a little bit long but, I mean, I can't 18 say it yes or no. 19 Q. (By Ms. Wedgworth) So does -- does any third 20 party have the same ability with regard to real-time 21 repair order in the Reynolds system as Reynolds does? 22 MS. GULLEY: Objection; form. 23 A. That's a much better restatement. 24 Q. (By Ms. Wedgworth) Thank you. 25 A. And -- yeah. And the answer is, no. There's</p>
<p style="text-align: right;">Page 265</p> <p>1 Q. (By Ms. Wedgworth) Where does it say that? 2 MS. GULLEY: Objection; form. 3 A. That's my belief. 4 MS. GULLEY: Peggy, if you're between 5 documents, lunch has been here about 30 minutes. 6 MS. WEDGWORTH: It's here? 7 MS. GULLEY: Yeah, it is. 8 MS. WEDGWORTH: Yeah, let's break for 9 lunch. Thank you. 10 THE VIDEOGRAPHER: This is the end of Media 11 2. The time is 12:17 p.m. We're off the record. 12 (Lunch recess 12:17 to 1:36 p.m.) 13 THE VIDEOGRAPHER: We're back from lunch. 14 This is the beginning of Media 3. The time is 1:36 p.m. 15 We're back on the record. 16 EXAMINATION (Continuing) 17 BY MS. WEDGWORTH: 18 Q. Good afternoon, Mr. Brockman. Does Reynolds' 19 service product have real-time repair order 20 functionality? 21 MS. GULLEY: Objection; form. 22 A. Does Reynolds' service product have 23 real-time -- 24 Q. (By Ms. Wedgworth) Repair order functionality? 25 A. Yes. And that's an integral part of it.</p>	<p style="text-align: right;">Page 267</p> <p>1 no outside third party that has identical access or has 2 identical functionality. We do -- because remember, you 3 know, repair order -- you know, functionality, that's an 4 integral part. That's what the service system does, is 5 it creates repair orders. And, you know, uses them to, 6 you know, process the information and help run the shop. 7 It's not an interface at all. That's -- that's it. 8 Q. Has any third party other than AutoAlert had 9 real-time repair order functionality? 10 MS. GULLEY: Objection; form. 11 A. Again, you know, repair order functionality, as 12 you're using it, is a very broad statement, okay? There 13 is certainly some functionality that, you know, other 14 third parties have in terms of, you know, looked-at kind 15 of access. But to actually start a repair order -- you 16 know, make a repair order -- what you call "repair order 17 functionality," that's the integral part of -- of the 18 service system. And no other third party has that. 19 Q. (By Ms. Wedgworth) The functionality you're 20 speaking about is to create and edit a repair order? 21 MS. GULLEY: Objection; form. 22 A. There is the -- the way that I describe it 23 is -- and that's there's -- there's repair order 24 functionality, using a broad word like -- like you -- 25 like you stated. Only, you know, Reynolds software has</p>

26 (Pages 264 - 267)

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<p style="text-align: right;">Page 268</p> <p>1 that, because that is the integral part, you know. 2 That's the center functions of Reynolds service 3 software, okay? Any other access to repair order 4 functions is -- is much more limited. It's limited to 5 look only, that type of access. That's the kind of 6 access the third party had -- have. None of them have, 7 you know, the first type of access, which is the guts of 8 Reynolds service system. 9 Q. (By Ms. Wedgworth) With regard to pricing in 10 June of 2016, did Reynolds implement a transaction fee 11 with regard to RCI to their vendors? 12 MS. GULLEY: Objection; form. 13 A. The time frame was when? 14 Q. (By Ms. Wedgworth) Mid-2016. 15 MS. GULLEY: Form. 16 A. Is that around the date of -- of the Xtime 17 issue? 18 Q. (By Ms. Wedgworth) You'd know that better than 19 me, so I don't know the answer to the question. But I 20 will show you a document that will be Plaintiff's 21 Exhibit 672. 22 (Exhibit 672 Brockman was marked for 23 identification.) 24 Q. (By Ms. Wedgworth) I'll show you what's been 25 marked as Plaintiff's Exhibit 672.</p>	<p style="text-align: right;">Page 270</p> <p>1 A. No. It -- it is called -- and I don't even 2 know that we call it a "transaction fee." It is -- it 3 is a fee for each time a record is -- is added, changed 4 or deleted. And it's only where they have write-back 5 access. You know, in order to talk about this, it's 6 important to talk about what happened to Xtime and -- 7 Q. (By Ms. Wedgworth) Actually, I didn't ask that 8 question. I'm just simply asking if there was a 9 transaction fee implemented in mid-2016. 10 A. The answer to that is -- and that's no. That's 11 not the case. 12 Q. A transaction fee was not implemented to 13 vendors with write-back interface? 14 MS. GULLEY: Objection; form. 15 A. It's a transaction fee only if they did an add, 16 change or delete. 17 Q. (By Ms. Wedgworth) And was that fee five cents 18 per transaction? 19 A. That's correct. 20 Q. And a year later, was that 21 five-cent-per-transaction fee increased? 22 A. Yes, it was increased as part of our -- our 23 normal, you know, annual price increase. 24 Q. Are you the ultimate decision maker on that 25 price increase?</p>
<p style="text-align: right;">Page 269</p> <p>1 Mr. Brockman, have you reviewed Plaintiff's 2 Exhibit 672? 3 A. Yes. And which is very helpful, as a matter of 4 fact, because it does, you know, allow correct focus 5 on -- on the timelines in that, you know -- this 6 particular document is partially in reference to exactly 7 what I thought, which is around the Xtime incident -- 8 subsequent to the Xtime incident. 9 Q. So is it fair to say that in mid-2016, Reynolds 10 raised RCI pricing? 11 MS. GULLEY: Objection; form. 12 A. No. That's not correct. 13 Q. (By Ms. Wedgworth) Is it fair to say that they 14 implemented a transaction fee? 15 MS. GULLEY: Objection; form. 16 A. No. That's not correct. You know, what 17 happened was -- and that's that -- and this affects only 18 a very small number of RCI, you know, customers. Again, 19 it also -- it only affects those that actually try to 20 have update capability that could cause the kind of 21 problem that occurred with Xtime. 22 Q. (By Ms. Wedgworth) So with regard to those 23 vendors who were subject to the transaction fee, is that 24 something sometimes called a "ping fee"? 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 271</p> <p>1 MR. RYAN: Object to the form. 2 A. Yes and no. The answer is general -- in 3 general terms, yes. I do not actually, you know -- I'm 4 not involved in the actual price increase of each 5 individual, you know, item number that we sell. My 6 involvement has only to do with, you know, what the 7 general percentage is going to be, which is CPI plus 2. 8 And, you know, this year it's -- CPI plus 2 is 4.1 9 percent. 10 Q. (By Ms. Wedgworth) Did you receive and write 11 this email, 672, on or about July 4, 2016? 12 A. Yes, I did. 13 (Exhibit 673 Brockman was marked for 14 identification.) 15 Q. (By Ms. Wedgworth) Mr. Brockman, I'll show you 16 what's been marked as Plaintiff's Exhibit 673. 17 A. Yes. 18 Q. Did you receive and write this email in 673 on 19 or about May 9, 2017? 20 A. Yes, that's correct. 21 Q. And does this document reflect your approval of 22 a price increase with regard to the transaction fee? 23 MS. GULLEY: Objection; form. 24 A. I don't see that it -- okay. It does address 25 the per transaction price increase.</p>

27 (Pages 268 - 271)

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<p style="text-align: right;">Page 272</p> <p>1 Q. (By Ms. Wedgworth) And you approved that price 2 increase?</p> <p>3 A. Yes, I did.</p> <p>4 Q. Do you know how the price increase of a quarter 5 of a cent was determined?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. It looks to me like -- it says here, it 8 was a -- a 5 percent -- which was CPI plus 2 -- for that 9 year.</p> <p>10 Q. (By Ms. Wedgworth) Does Reynolds track RCI 11 cost in any way?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. We do not.</p> <p>14 Q. (By Ms. Wedgworth) I'm sorry?</p> <p>15 A. We do not.</p> <p>16 Q. With regard to RCI cost, do those -- do the 17 costs include the developing of interfaces?</p> <p>18 A. Yes, that would be one of the costs.</p> <p>19 Q. Is another cost server maintenance?</p> <p>20 A. Server maintenance, server heat, light, power, 21 server amortization, server repair, replacement, you 22 know, the -- the manpower it takes to supervise all 23 that. I'm sure that there's more factors than that, but 24 those are the ones that come right off the top of my 25 head.</p>	<p style="text-align: right;">Page 274</p> <p>1 insurance -- there's probably -- if I had an opportunity 2 to sit down and think about it for a while, I -- I could 3 build a much longer list. But it's -- it's much more in 4 terms of numbers of the things to be considered than 5 what you have there.</p> <p>6 Q. (By Ms. Wedgworth) And no one at Reynolds has 7 done this list of costs with regard to RCI?</p> <p>8 MS. GULLEY: Objection; form.</p> <p>9 A. That's correct. We do not have cost 10 accounting.</p> <p>11 Q. (By Ms. Wedgworth) Do dealers, as part of 12 their Reynolds contracts, pay Reynolds for storage of 13 their data?</p> <p>14 A. Only in -- in certain situations. We have a -- 15 a product offering, which is called -- the acronym for 16 it is RBDR. And what it does is -- and that's that it 17 provides for backup of -- of dealership's data on a 18 remote automatic basis. This -- if -- if the customer 19 has their own server, they have to have an employee 20 which is charged with running the backups every night 21 and filing the tape away in a fireproof vault.</p> <p>22 The RBDR product, you know, takes the 23 responsibility of remotely accessing the dealership's 24 server and backing up its data files into our Dayton, 25 Ohio research park office. And that -- that service</p>
<p style="text-align: right;">Page 273</p> <p>1 Q. Is one of the costs of RCI the DSV personnel 2 compensation?</p> <p>3 A. Yes.</p> <p>4 Q. Is Bob Schaefer's salary part of RCI costs?</p> <p>5 A. I would imagine so. But, again, I repeat which 6 I talked about several times, we do not have cost 7 accounting.</p> <p>8 Q. I understand.</p> <p>9 A. But -- but from a theoretical standpoint, yes, 10 you know, his compensation would -- would be something 11 that would -- it would be -- would be included, you 12 know, if we had cost accounting, which we don't.</p> <p>13 Q. Are there any other RCI costs you're aware of, 14 other than the developing of interfaces, the service -- 15 server maintenance costs, the DSV personnel comp, such 16 as Mr. Schaefer's salary? Anything else for RCI costs?</p> <p>17 MS. GULLEY: Form.</p> <p>18 A. I think it's a considerable more number of 19 things. Because, you know, for instance, Internet 20 bandwidth is -- would be an important, you know, 21 component, because all these transactions flow through 22 what we refer to as "the hub." And it -- in itself is a 23 completely separate system. It's designed for -- for 24 moving packets of data between servers.</p> <p>25 We have the issue of -- of fire</p>	<p style="text-align: right;">Page 275</p> <p>1 also provides for -- in the event of disaster recovery, 2 will air freight them a -- a new server and load it with 3 their most recent backup data so they can get back in 4 business.</p> <p>5 Q. So if the dealership has their own server for 6 storage of their data, is there any cost to the 7 dealership from Reyn- -- that they must pay to Reynolds?</p> <p>8 MS. GULLEY: Objection; form.</p> <p>9 A. I'm not -- not quite understanding. Could 10 you --</p> <p>11 Q. (By Ms. Wedgworth) So -- so if the dealership 12 stores their own data and doesn't use RBDR, is there a 13 cost to the dealership that Reynolds charges?</p> <p>14 MS. GULLEY: Object to form.</p> <p>15 A. There -- there's a maintenance charge for -- 16 for that server. And what that covers is -- that covers 17 onsite maintenance repair and replacement.</p> <p>18 Q. (By Ms. Wedgworth) So that's a monthly charge?</p> <p>19 MS. GULLEY: Form.</p> <p>20 A. Yes.</p> <p>21 Q. (By Ms. Wedgworth) To the dealership?</p> <p>22 A. Yes, that's correct.</p> <p>23 Q. And that monthly charge to the dealership is 24 for dealer storage of their own data on their own 25 server; is that correct?</p>

28 (Pages 272 - 275)

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<p style="text-align: right;">Page 276</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. No. It's not a charge for dealership -- it's</p> <p>3 charged for hardware maintenance for -- for that server.</p> <p>4 Q. (By Ms. Wedgworth) If a dealership doesn't use</p> <p>5 the RBDR program you described, is there any cost to the</p> <p>6 dealership to -- to store the data?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. Again, the -- the charge for the server is for</p> <p>9 hardware maintenance. There are software monthly fees,</p> <p>10 which are under contract. Each element of software</p> <p>11 generally has some requirement to store data, but</p> <p>12 there's no, you know, fee that is identified as -- as</p> <p>13 data storage.</p> <p>14 (Exhibit 674 Brockman was marked for</p> <p>15 identification.)</p> <p>16 Q. (By Ms. Wedgworth) Mr. Brockman, I'll show you</p> <p>17 what's been marked as Plaintiff's Exhibit 674. It's</p> <p>18 Bates number: REYMDL00503332 through 35.</p> <p>19 Mr. Brockman have you had a chance to</p> <p>20 review Plaintiff's Exhibit 674?</p> <p>21 A. Yes, ma'am. My comment to this one is really</p> <p>22 getting down to the weeds. It's going to take a while</p> <p>23 to talk about this one.</p> <p>24 Q. I'm going to try to stay high-level on this</p> <p>25 one.</p>	<p style="text-align: right;">Page 278</p> <p>1 product called "Consumer Reach." That's what you see</p> <p>2 abbreviated as CR.</p> <p>3 Q. Mr. Brockman, there's no question pending right</p> <p>4 now.</p> <p>5 A. Well, I -- I guess if you're interested in</p> <p>6 knowing what's going on --</p> <p>7 Q. I -- I'm definitely interested in some things,</p> <p>8 but -- but the way it works is I ask the question and</p> <p>9 you answer. It's just the way the process works.</p> <p>10 So my question is: Is this part of</p> <p>11 Reynolds' suite of products to allow email blasts on the</p> <p>12 part of dealers to customers?</p> <p>13 MS. GULLEY: Objection; form. And to the</p> <p>14 prior thing.</p> <p>15 A. It relates to a -- a Reynolds product, which is</p> <p>16 being misused by the customer, which is resulting in</p> <p>17 great dislocation, both to Reynolds and to the customer.</p> <p>18 Their email traffic is blacklisted, which means it falls</p> <p>19 in a black hole. They don't know if it's transmitted or</p> <p>20 not. It's a very serious issue.</p> <p>21 Q. (By Ms. Wedgworth) Has Reynolds ever attempted</p> <p>22 to limit or reduce the number of recipients of a</p> <p>23 dealer's email blast?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. Yeah, prior to this, we had not. Okay? But</p>
<p style="text-align: right;">Page 277</p> <p>1 A. I don't know that's going to be possible.</p> <p>2 Q. Well, we'll give it a whirl.</p> <p>3 So did you write and receive this email on</p> <p>4 or about July 19th, 2017?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 Q. (By Ms. Wedgworth) Let me try it again.</p> <p>7 Did you write and receive this email on</p> <p>8 about the time period of July 16 through July 19, 2017?</p> <p>9 MS. GULLEY: Form.</p> <p>10 A. Well, there's -- I've got to go back. There --</p> <p>11 there's lots of emails on this string. And if you give</p> <p>12 me a moment, I'll try and count the ones that -- that --</p> <p>13 I actually sent.</p> <p>14 Q. (By Ms. Wedgworth) I think the one you sent</p> <p>15 was on the first page.</p> <p>16 MS. GULLEY: Form.</p> <p>17 Q. (By Ms. Wedgworth) And my question -- we'll</p> <p>18 just limit it to that -- the email on the first page,</p> <p>19 July 18, 2017. Did you write this?</p> <p>20 A. Is this July 18th?</p> <p>21 Q. Yes.</p> <p>22 A. Yes. That -- That's correct. What's saying</p> <p>23 here is -- and that's that we're concerned about -- you</p> <p>24 know, caps. Daily caps, monthly caps. What -- what</p> <p>25 this relates to is -- and that's that we have a -- a</p>	<p style="text-align: right;">Page 279</p> <p>1 what's happened is -- and that's they're buying outside</p> <p>2 direct mail lists that have bad email addresses in them.</p> <p>3 And then they send out an email blast. And the email,</p> <p>4 you know, provider gets upset about that, and they</p> <p>5 blacklist the address. They blacklist the -- you know,</p> <p>6 the -- the dealership's address. And in this case, what</p> <p>7 they're doing is they're getting ours blacklisted, which</p> <p>8 means that we have a whole bunch of customers that get</p> <p>9 disabled, you know, because one dealer has done</p> <p>10 something stupid.</p> <p>11 Q. (By Ms. Wedgworth) And is it fair to say</p> <p>12 somebody at Reynolds says the problem can be solved by</p> <p>13 contacting a Reynolds product called Naked Lime?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. If you will point that out to me.</p> <p>16 Q. (By Ms. Wedgworth) The first paragraph at the</p> <p>17 bottom, Mr. Barras writes to you.</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. That's correct. That's what it says. The</p> <p>20 Naked Lime product has a more sophisticated way of</p> <p>21 handling emails than the consumer reach product. The</p> <p>22 consumer reach product is a very old product. And</p> <p>23 the -- the Naked Lime product, it has license built into</p> <p>24 it that since -- when email service provider is throwing</p> <p>25 away emails and -- to stop the whole process before</p>

29 (Pages 276 - 279)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 280</p> <p>1 blacklisting occurs.</p> <p>2 Q. (By Ms. Wedgworth) So you respond to</p> <p>3 Mr. Barras by saying, "I think there should be daily</p> <p>4 caps as well as monthly caps"; is that correct?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. Yes. And that -- that's a -- again, this is --</p> <p>7 in an effort to stop sending junk to the email service</p> <p>8 provider, to avoid getting blacklisted.</p> <p>9 Q. (By Ms. Wedgworth) So Reynolds did limit the</p> <p>10 number of recipients of a dealer's email blast; correct?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. I'm not sure, you know, what the final</p> <p>13 disposition was of this problem. I know that -- I do</p> <p>14 know that now it's no longer the issue it was when this</p> <p>15 happened. When this happened it was a disaster.</p> <p>16 Q. (By Ms. Wedgworth) Was the quota done to both</p> <p>17 legacy and new customers?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. I -- I don't know exactly, you know, what</p> <p>20 the -- what the final resolution was. You know, these</p> <p>21 emails relate to a moment in time when the product was,</p> <p>22 you know -- or when the problem was at its worse.</p> <p>23 Q. (By Ms. Wedgworth) Well, there was no</p> <p>24 recommendation to put a quota on Naked Lime; correct?</p> <p>25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 282</p> <p>1 out to "300." Is that you scratching out "150" and</p> <p>2 inserting "300"?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. (By Ms. Wedgworth) Is that true for all the</p> <p>6 other numbers that are handwritten?</p> <p>7 A. Yes, ma'am.</p> <p>8 MS. GULLEY: Form.</p> <p>9 Q. (By Ms. Wedgworth) And then handwritten, "For</p> <p>10 installation of monthly support fees for Canadian</p> <p>11 dealers," it's -- "20%" is crossed out. "30%" -- is</p> <p>12 that your handwriting?</p> <p>13 A. Yes, it is.</p> <p>14 Q. And then "Per dealer install fee is per the</p> <p>15 table," your handwriting again?</p> <p>16 A. Yes, that's correct.</p> <p>17 Q. How did you determine to raise the per dealer</p> <p>18 installation fee for package going from \$150 to \$300?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. This particular customer has a number of -- of</p> <p>21 real-time interfaces, which means they're very heavily</p> <p>22 dependent upon, you know, our software functionality to,</p> <p>23 you know, get done what they want to have done. Every</p> <p>24 time that we do one of these, we run into the issue of</p> <p>25 increasing the complexity in our application software.</p>
<p style="text-align: right;">Page 281</p> <p>1 A. It's my understanding that Naked Lime did not</p> <p>2 suffer from the problem.</p> <p>3 Q. (By Ms. Wedgworth) So there was no quota put</p> <p>4 on Naked Lime?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. Again, I don't know, you know, what was done,</p> <p>7 you know, subsequent to this email. I'm -- it is a --</p> <p>8 it is -- it's one of, you know, of the issues that goes</p> <p>9 on in the company with 5,000 employees and tens of</p> <p>10 thousands of customers. And I -- I see moments in time,</p> <p>11 but I -- I don't know everything that's going on.</p> <p>12 Q. (By Ms. Wedgworth) Mr. Brockman, I'll show you</p> <p>13 what has been previously marked as Plaintiff's Exhibit</p> <p>14 226. I'm going to focus you on the last page to ask you</p> <p>15 if it's your handwriting.</p> <p>16 A. You said the last -- the last, last page?</p> <p>17 Q. Yes.</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 Q. (By Ms. Wedgworth) Is this your handwriting,</p> <p>20 Mr. Brockman?</p> <p>21 A. Yes, it is.</p> <p>22 Q. And at the top of the page, it says, "AutoAlert</p> <p>23 Irvine California." And then the handwriting you have</p> <p>24 in the middle of the page, "per dealer installation</p> <p>25 fee," the typewritten is "150." It -- it's scratched</p>	<p style="text-align: right;">Page 283</p> <p>1 And part of -- part of my decision-making responsibility</p> <p>2 is -- and that's that there is all kinds of requests</p> <p>3 for, you know, this and that to be done to our</p> <p>4 application software.</p> <p>5 Now, if I say yes to them all, in the last</p> <p>6 act, everybody goes crazy, because it's become too big</p> <p>7 and too complex. It's my job to actually think about</p> <p>8 all the time, you know, what is it that we're doing</p> <p>9 that's going to increase complexity in our application</p> <p>10 software? In this particular case, I believe that</p> <p>11 the -- the complexity load that this particular customer</p> <p>12 was going to put on us, you know, really required a</p> <p>13 little bit higher price.</p> <p>14 And -- you know, that's just, you know, the</p> <p>15 sum and substance of it. You know, we cannot do, you</p> <p>16 know, everything that everybody likes -- would like to</p> <p>17 have without cost, which means we've got to increase the</p> <p>18 prices a little bit.</p> <p>19 Q. (By Ms. Wedgworth) Was one of the real-time</p> <p>20 interfaces for AutoAlert the repair order?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. It is the -- it is the publish repair order,</p> <p>23 which is taking the -- the -- it's notifying the third</p> <p>24 party that there's been activity on a repair order.</p> <p>25 It's either been opened or closed. And they want to --</p>

30 (Pages 280 - 283)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 284</p> <p>1 they want to know that, really, right at the instant</p> <p>2 that it occurs, it's real time.</p> <p>3 Q. (By Ms. Wedgworth) Did you consult any</p> <p>4 particular documents, or specific information, when you</p> <p>5 made these changes?</p> <p>6 A. No.</p> <p>7 Q. Did you speak to anyone, specifically, about</p> <p>8 making these changes?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Mr. Brockman, I'll show you what's been marked</p> <p>11 as Plaintiff's Exhibit 675.</p> <p>12 (Exhibit 675 Brockman was marked for</p> <p>13 identification.)</p> <p>14 Q. (By Ms. Wedgworth) Which is the July 2018</p> <p>15 financial page -- package. And I'm going to ask you to</p> <p>16 turn to Page 16 of the document which is, again, going</p> <p>17 down under the RCI numbers for July through 2000- --</p> <p>18 2018, there's a "14%" on "Recurring Revenue" for RCI?</p> <p>19 MS. GULLEY: Objection.</p> <p>20 Q. (By Ms. Wedgworth) From the previous year?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. Thank you very much.</p> <p>23 Q. (By Ms. Wedgworth) It's about six lines down</p> <p>24 from the top. RCI "Recurring" -- "Recurring Revenue" --</p> <p>25 further up.</p>	<p style="text-align: right;">Page 286</p> <p>1 new projects, new software, new hires, new customer</p> <p>2 relationships. Those are much more important to me than</p> <p>3 these detailed numbers.</p> <p>4 Q. At the bottom of this page where there are</p> <p>5 three asterisks, at the very bottom, beneath the</p> <p>6 highlighted numbers that you looked at earlier, there's</p> <p>7 a note with three asterisks. "Legal Fees for Data</p> <p>8 Services are \$1,034k in July, \$10,690k YTD or \$18.3M</p> <p>9 annualized. Case to date (Aug 2017-current) costs total</p> <p>10 \$16.3M." Do you see that?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. Yes, I do.</p> <p>13 Q. (By Ms. Wedgworth) Have you looked at that</p> <p>14 before?</p> <p>15 A. I think I've actually -- probably as a thumb</p> <p>16 through, I probably noticed that one.</p> <p>17 Q. Are those -- are those costs with regard to the</p> <p>18 current litigation we're in now?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. I believe that to be the case. Though it</p> <p>21 doesn't specifically say that, but that -- I would think</p> <p>22 that would probably be true.</p> <p>23 Q. (By Ms. Wedgworth) Is this a -- a figure</p> <p>24 you've requested to be put in the data?</p> <p>25 MS. GULLEY: Objection; form.</p>
<p style="text-align: right;">Page 285</p> <p>1 MS. GULLEY: Is there a question?</p> <p>2 Q. (By Ms. Wedgworth) Do you see the "14%"?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. I'm not seeing a -- a percentage on the line</p> <p>5 that I'm looking at anywhere.</p> <p>6 Q. (By Ms. Wedgworth) If you start at the top of</p> <p>7 the page and go six lines down.</p> <p>8 A. Oh, the top of the page?</p> <p>9 Q. Yes.</p> <p>10 A. I'm sorry, I was distracted by the highlighting</p> <p>11 that you have. It's further down towards the bottom of</p> <p>12 the page.</p> <p>13 Q. So there's "One Time Revenue," and beneath it</p> <p>14 is "Recurring Revenue." Keep going down to RCI, under</p> <p>15 "Recurring Revenue." Not "One Time," but "Recurring."</p> <p>16 A. Okay. I -- I found --</p> <p>17 Q. Do you see the "14%"?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. Yes.</p> <p>20 Q. (By Ms. Wedgworth) And does that -- is this a</p> <p>21 number that you would look at on a monthly basis?</p> <p>22 A. Not really. As I've stated before, I spend, on</p> <p>23 this particular package that comes out once a month,</p> <p>24 half-hour or less. Because this is not where the action</p> <p>25 is as far as I'm concerned. I'm much more interested in</p>	<p style="text-align: right;">Page 287</p> <p>1 A. No, it is not.</p> <p>2 MS. WEDGWORTH: If we just a very short</p> <p>3 break, I want to confer with co-counsel for just a</p> <p>4 minute. Off the record.</p> <p>5 MS. GULLEY: Off the record.</p> <p>6 THE VIDEOGRAPHER: Off the record at 2:15</p> <p>7 p.m.</p> <p>8 (Short recess 2:15 to 2:21 p.m.)</p> <p>9 THE VIDEOGRAPHER: Time is 2:21 p.m. We're</p> <p>10 back on the record.</p> <p>11 EXAMINATION (Continuing)</p> <p>12 BY MS. WEDGWORTH:</p> <p>13 Q. Mr. Brockman, other than the ODE relationship,</p> <p>14 the CBR relationship and the informal relationship you</p> <p>15 spoke about earlier today, does Reynolds have any other</p> <p>16 relationships with CDK?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. If you could repeat that list? It's OD</p> <p>19 relationship...</p> <p>20 Q. (By Ms. Wedgworth) CBR.</p> <p>21 A. CBR.</p> <p>22 Q. And the informal relationship you discussed</p> <p>23 today.</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. That's all that I'm aware of.</p>

31 (Pages 284 - 287)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 288</p> <p>1 Q. (By Ms. Wedgworth) Are you aware of any other 2 relationships before -- that existed with CDK that no 3 longer exist?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. (By Ms. Wedgworth) I want to show you 7 Plaintiff's Exhibit 676, which is the last financial 8 statement we'll look at. And it's "December YTD 2017." 9 And I just have a simple question: Is -- this -- did 10 you receive this document in the ordinary course of your 11 job after December 2017?</p> <p>12 MS. GULLEY: Objection; form. 13 (Exhibit 676 Brockman was marked for 14 identification.)</p> <p>15 A. I -- I don't know what the legal definition is 16 of "in the ordinary course of my job."</p> <p>17 Q. (By Ms. Wedgworth) Well, as part of your job, 18 did you -- it -- was this the document you would receive 19 on a regular basis?</p> <p>20 A. Yeah. Stated that way --</p> <p>21 MS. GULLEY: Form.</p> <p>22 A. -- yes, I agree.</p> <p>23 MS. WEDGWORTH: At this point, I'm going to 24 reserve my remaining time. And I think Mr. Nemelka has 25 a couple of questions.</p>	<p style="text-align: right;">Page 290</p> <p>1 Reynolds were negotiating the wind-down agreement; is 2 that right?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. I believe that's correct.</p> <p>5 Q. (By Mr. Nemelka) And here, the second sentence 6 that you write is, "We need to conclude our deal -- or 7 not -- as I have issues that can no longer wait to be 8 dealt with." Are those issues the security enhancements 9 that you've been holding off on?</p> <p>10 A. That's correct.</p> <p>11 Q. And then you relate to him that some "bright, 12 mostly young Harvard MBA-types" have been wanting to 13 talk to you about CDK, right?</p> <p>14 A. They really -- they start out, they want to be 15 taught about the industry.</p> <p>16 Q. But then they turned and wanted to talk to you 17 about CDK?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. Yes. That -- That's what it says and that's -- 20 that's exactly what was happening.</p> <p>21 Q. (By Mr. Nemelka) And what they wanted to know 22 is -- and as you write, "What they really want to know 23 about is CDK -- how you operate -- and not very 24 subtly -- what could be done to improve things." That's 25 what they wanted to talk to you about, right?</p>
<p style="text-align: right;">Page 289</p> <p>1 MS. GULLEY: Could I just ask you a 2 question? When you say you reserve you're remaining 3 time, do you -- you mean reserve whatever remaining time 4 there is after Mr. Nemelka, right?</p> <p>5 MR. NEMELKA: Right.</p> <p>6 MS. WEDGWORTH: Yes.</p> <p>7 MS. GULLEY: Just to clarify.</p> <p>8 EXAMINATION</p> <p>9 BY MR. NEMELKA:</p> <p>10 Q. Good afternoon, Mr. Brockman. Mike Nemelka. 11 A. Good morning. (Inaudible.)</p> <p>12 Q. I just have a few questions for you about just 13 a few documents here at the end of the day. I'd hand 14 you Plaintiff's Exhibit 677, which is an email from you 15 to Mr. Schaefer, forwarding a correspondence that you 16 had with Mr. Anenen in February of 2013. I'll give you 17 a moment to read it.</p> <p>18 (Exhibit 677 Brockman was marked for 19 identification.)</p> <p>20 A. Yes.</p> <p>21 Q. (By Mr. Nemelka) Thank you. So the bottom 22 email is an email from you to Mr. Steve Anenen dated 23 February 5th [sic], 2015; correct?</p> <p>24 A. Yes.</p> <p>25 Q. And this was around the time when CDK and</p>	<p style="text-align: right;">Page 291</p> <p>1 MS. GULLEY: Form.</p> <p>2 A. These are unsolicited calls. You know, the 3 phone rang, as I pick it up and, you know, there's 4 somebody that wants to talk to me. And this is what was 5 happening.</p> <p>6 Q. (By Mr. Nemelka) And you told them, as you 7 write here, "I am exactly the right person that you want 8 to talk to -- but I am very busy -- and am not talking." 9 Is that what you told them?</p> <p>10 MS. GULLEY: Form.</p> <p>11 A. That's correct.</p> <p>12 Q. (By Mr. Nemelka) When you say you were exactly 13 the right person that they wanted to talk to about CDK 14 and how they could improve things, what did you mean?</p> <p>15 MS. GULLEY: Form.</p> <p>16 A. No question, I -- I've not been in this 17 business for the number of years I have and not learned 18 things about how to run this type of business. I don't 19 know about other business, but I know about this kind of 20 business.</p> <p>21 Q. (By Mr. Nemelka) And then you conclude in your 22 email to Mr. Anenen, "Just so you know when someone is 23 throwing darts at you -- it isn't me providing them the 24 ammunition."</p> <p>25 A. Yes.</p>

32 (Pages 288 - 291)

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<p style="text-align: right;">Page 292</p> <p>1 Q. So what did you mean by that?</p> <p>2 MS. GULLEY: Form.</p> <p>3 A. Well, I think exactly that. I mean, you know,</p> <p>4 I think Steve Anenen was under a lot of pressure from,</p> <p>5 you know -- you know, dissident stockholders who were</p> <p>6 mostly hedge fund-type kind of folks. And Steve is a</p> <p>7 very nice person. I personally like the guy. He always</p> <p>8 has been polite, gentlemanly with me, and I've tried to</p> <p>9 be so with him. And I wouldn't be in a hurry to see him</p> <p>10 be ambushed. And so I couldn't help him other than say,</p> <p>11 "Look, it ain't me, but somebody is gunning at you."</p> <p>12 Q. (By Mr. Nemelka) Okay. You can put that</p> <p>13 aside.</p> <p>14 (Exhibit 678 Brockman was marked for</p> <p>15 identification.)</p> <p>16 Q. (By Mr. Nemelka) I've handed you a document --</p> <p>17 first of all, before I do -- yesterday we talked about</p> <p>18 how certain applications would need RCI and 3PA</p> <p>19 interfaces forever from you and CDK. Do you recall when</p> <p>20 we talked about -- talked about that?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. I think I -- I referred to the fact that, as</p> <p>23 certain applications -- like, for instance, ReverseRisk,</p> <p>24 which has a -- a substantial number of, you know, ADP or</p> <p>25 CDK DMS systems. In order to provide that particular</p>	<p style="text-align: right;">Page 294</p> <p>1 MS. GULLEY: Form.</p> <p>2 A. I don't know --</p> <p>3 Q. (By Mr. Nemelka) Strike that. I think that</p> <p>4 was a bad question.</p> <p>5 A. Would you like to s- -- have another question?</p> <p>6 Q. Yes, I do have another question.</p> <p>7 A. Okay.</p> <p>8 Q. And you recognized that there were some</p> <p>9 benefits to Cox Automotive and its ac- -- acquisition of</p> <p>10 Dealertrack in -- in combining those assets; correct?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. I think as a -- as just a matter of normal</p> <p>13 course, when there's a major transaction happen amongst</p> <p>14 other companies that are in the same industry that we're</p> <p>15 in, I kind of -- I read those articles. And certainly,</p> <p>16 you know, any good size acquisition, such as this one</p> <p>17 was -- at the heart of it -- it had to be some manner of</p> <p>18 synergies. And that's what I said.</p> <p>19 Q. (By Mr. Nemelka) And what you write here is</p> <p>20 that -- to Mr. Lamb -- "I think [that] there is no</p> <p>21 question that they will achieve some more market power</p> <p>22 by combining VAuto and AAX. However to make these apps</p> <p>23 really work right, they will require RCI interfaces</p> <p>24 forever from us and CDK." You wrote that, right?</p> <p>25 MS. GULLEY: Form.</p>
<p style="text-align: right;">Page 293</p> <p>1 product to them, it would require, on a long -- because</p> <p>2 as long as they use that product, you know, in order for</p> <p>3 it to work, it has to have accounting data.</p> <p>4 Q. (By Mr. Nemelka) And there is some Cox</p> <p>5 Automotive applications that you believe would need RCI</p> <p>6 and 3PA interfaces forever from Reynolds and CDK, right?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. There -- there are -- again, using the</p> <p>9 ReverseRisk example, a dealership that uses the</p> <p>10 Dealertrack accounting system in order to be able to,</p> <p>11 you know, have and utilize a ReverseRisk business</p> <p>12 intelligence system would need to have some manner of --</p> <p>13 of data access or accounting data.</p> <p>14 Q. (By Mr. Nemelka) I've handed you Plaintiff's</p> <p>15 Exhibit 678. Which is an email from you to Ron Lamb,</p> <p>16 dated June 30, 2015, the subject being "Cox/DT Merger."</p> <p>17 And I will give you a moment to review it.</p> <p>18 A. Yes.</p> <p>19 Q. So this email chain between you and Mr. Lamb</p> <p>20 relates to Cox Automotive's acquisition of Dealertrack;</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. And the combining of certain applications</p> <p>24 already owned by Cox Automotive and those who are owned</p> <p>25 by Dealertrack; correct?</p>	<p style="text-align: right;">Page 295</p> <p>1 A. Yes, that's correct.</p> <p>2 Q. (By Mr. Nemelka) And when you say "RCI</p> <p>3 interfaces," what you mean is RCI interface from</p> <p>4 Reynolds and a 3PA interface from CDK, right?</p> <p>5 MS. GULLEY: Form.</p> <p>6 A. That's correct. And -- and this -- and there</p> <p>7 is an opinion statement here when I say, "However to</p> <p>8 make these apps really work right." That's my opinion.</p> <p>9 Q. (By Mr. Nemelka) Right.</p> <p>10 A. That's not necessarily a decided fact. And --</p> <p>11 and the fact these products continue to work as they are</p> <p>12 today -- but they could also work a little better.</p> <p>13 Q. And it's because they have -- but in your</p> <p>14 opinion, is that they would need interfaces with RCI and</p> <p>15 3PA forever in order to work properly; correct?</p> <p>16 MS. GULLEY: Objection; form.</p> <p>17 A. That's my opinion. It would be very much like</p> <p>18 the ReverseRisk product that we have today, which</p> <p>19 is an -- an accounting business intelligence software.</p> <p>20 In order to work, it relies on a continuing source of,</p> <p>21 you know, accounting data.</p> <p>22 Q. (By Mr. Nemelka) Does VAuto need -- need</p> <p>23 accounting data in order --</p> <p>24 MS. GULLEY: Form.</p> <p>25 A. No. It doesn't, but -- well, I say it doesn't</p>

33 (Pages 292 - 295)

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<p style="text-align: right;">Page 296</p> <p>1 need it, but it's nice.</p> <p>2 Q. (By Mr. Nemelka) All right.</p> <p>3 A. It -- it would be -- you know, you can keep</p> <p>4 track of what your accounting basis is from a tax</p> <p>5 standpoint, from a -- a gap accounting standpoint. You</p> <p>6 can do that by hand in the VAuto system. But it'd be a</p> <p>7 little nicer if it automatically went over and sniffed</p> <p>8 the accounting system and came back with a number and</p> <p>9 put it in VAuto system.</p> <p>10 Q. All right. You can set that aside.</p> <p>11 I've handed you what I've marked as Exhibit</p> <p>12 679, which is an email from you to Bob -- to Bob</p> <p>13 Schaefer, dated July 1, 2017, with the subject being</p> <p>14 "Data Access Direction." I'll give you a moment to</p> <p>15 review.</p> <p>16 (Exhibit 679 Brockman was marked for</p> <p>17 identification.)</p> <p>18 Q. (By Mr. Nemelka) Finished, Mr. Brockman?</p> <p>19 A. Yes.</p> <p>20 Q. So Mr. Schaefer -- this -- July 1st, 2017, this</p> <p>21 was after Authenticom had filed the lawsuit against</p> <p>22 Reynolds and CDK; correct?</p> <p>23 A. Yes, that's correct.</p> <p>24 Q. This is after, also, the preliminary injunction</p> <p>25 hearing involving that lawsuit; correct?</p>	<p style="text-align: right;">Page 298</p> <p>1 Q. (By Mr. Nemelka) And ShowroomMagnet -- and</p> <p>2 that's a Reynolds application; correct?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. And that's a Reynolds application. It is a --</p> <p>5 it's a very small one. It's the one that provides a</p> <p>6 cash voucher, a motivation, to get prospective car</p> <p>7 buyers to come in and take a -- a test drive.</p> <p>8 Q. (By Mr. Nemelka) And he says for that one,</p> <p>9 Authenticom was currently pulling data from Reynolds</p> <p>10 DMSs, right?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 Q. (By Mr. Nemelka) Do you see that? After -- at</p> <p>13 Showroom Management -- or ShowroomMagnet?</p> <p>14 MS. GULLEY: Form.</p> <p>15 Q. (By Mr. Nemelka) He writes, "Currently pulling</p> <p>16 from Reynolds DMS." Do you see that?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. I see that.</p> <p>19 Q. (By Mr. Nemelka) So Reynolds was using</p> <p>20 Authenticom to pull data from Reynolds dealers; correct?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. I think what's happening there is -- and that's</p> <p>23 this was a -- a result of an acquisition of a --</p> <p>24 evidently, fairly recent acquisition. And it, you</p> <p>25 know -- it had, prior to us acquiring this little</p>
<p style="text-align: right;">Page 297</p> <p>1 A. Yes, that's correct.</p> <p>2 Q. And Mr. Schaefer is writing you to say that</p> <p>3 Reynolds should terminate any of its relationships with</p> <p>4 Authenticom services; correct?</p> <p>5 A. That -- that's what he's recommending.</p> <p>6 Q. And what he says here in the first sentence is</p> <p>7 that Reynolds is still using Authenticom for MMS. And</p> <p>8 that's a Reynolds application; correct?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. It is a Reynolds application. It's sold to a</p> <p>11 fairly small number of -- of dealers that use CDK</p> <p>12 systems.</p> <p>13 Q. (By Mr. Nemelka) All right. And IDS</p> <p>14 ReminderTrax, that's a Reynolds application; correct?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. That's -- that's a service reminder card. It's</p> <p>17 an application that we sell to service departments. And</p> <p>18 in some cases, those service departments are -- use CDK</p> <p>19 software.</p> <p>20 Q. (By Mr. Nemelka) RepMan, that's also a</p> <p>21 Reynolds application; correct?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. RepMan is really a General Motors application.</p> <p>24 It's not -- not really ours. It's reputation</p> <p>25 management.</p>	<p style="text-align: right;">Page 299</p> <p>1 product, this little company, that they had been -- they</p> <p>2 were doing business, obviously, independently with us.</p> <p>3 And so therefore, they -- since they weren't RCI</p> <p>4 certified, they were going to a third party to -- to</p> <p>5 acquire data for them. Which -- this is something I'm</p> <p>6 not ever happy to see happening. But whenever you have</p> <p>7 an acquisition, things are not operated in the most</p> <p>8 efficient manner, and there are stupid things going on.</p> <p>9 And that would be classified as a stupid thing going on.</p> <p>10 Q. (By Mr. Nemelka) And you -- and in -- in</p> <p>11 response to Mr. Schaefer's recommendation to terminate</p> <p>12 all relationships with Authenticom after they had</p> <p>13 initiated this litigation, you wrote, "I agree -- do</p> <p>14 what needs to be done." That's what you wrote; correct?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. Yes. And I might add on that, I obviously</p> <p>17 wasn't happy about the fact that we've been -- we were</p> <p>18 sued, in my opinion, without good reason. But it --</p> <p>19 it's also important, I think, to do business with</p> <p>20 people, or with entities, that have substance. I don't</p> <p>21 think Authenticom has much in the way of substance. And</p> <p>22 I prefer to do business with some folks, particularly</p> <p>23 when it comes to data. If there's a lawsuit that goes</p> <p>24 on and there's a big judgement, I'm not the only one</p> <p>25 standing there.</p>

34 (Pages 296 - 299)

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<p style="text-align: right;">Page 300</p> <p>1 MR. NEMELKA: I have no further questions. 2 I'll reserve the remainder of our time. 3 MS. GULLEY: Thanks. I have some questions 4 before I get started. By my count, you have six 5 minutes. 6 All right. Thank you, Mr. Brockman. 7 Peggy, can you tell me where the exhibits 8 are from yesterday? Are they sort of that sea of 9 information? 10 MS. WEDGWORTH: I think in this area. 11 (Brief discussion.) 12 EXAMINATION 13 BY MS. GULLEY: 14 Q. Let's stick with the document Mr. Nemelka was 15 asking you about. That would be Plaintiff's Exhibit 16 679. All right. Do you have Plaintiff's Exhibit 679 in 17 front of you, sir? 18 A. Yes. 19 Q. One of Mr. Schaefer's statements to you related 20 to having relationships directly with the DMS 21 provider -- do you see it in parentheses? He's list DMS 22 providers CDK, Dealertrack, Automate and Autosoft? 23 A. Uh-huh. (Witness answers affirmatively.) 24 That's correct. 25 Q. And you -- you agreed that he should do what</p>	<p style="text-align: right;">Page 302</p> <p>1 A. In general terms, they seem to be clustered 2 around RCI. 3 Q. Okay. And one of the things that you have 4 testified about in the last couple of days is that 5 Reynolds does not have cost accounting; correct? 6 MS. WEDGWORTH: Objection. 7 A. That's correct. 8 Q. (By Ms. Gulley) And Ms. Wedgworth was asking 9 you questions about some of the costs of RCI. There are 10 costs associated with RCI; correct? 11 MS. WEDGWORTH: Objection. 12 A. Absolutely. 13 Q. (By Ms. Gulley) What -- what about Reynolds' 14 efforts to secure its enterprise system? What are the 15 costs associated with Reynolds' efforts to secure its 16 enterprise system, in general terms? 17 MS. WEDGWORTH: Objection. 18 MR. NEMELKA: Objection. 19 A. Well, probably the first category has to do 20 with it takes a whole bunch of executive attention, mine 21 included, to focus on the issue of data security. And 22 deciding, you know, what needs to be done, how -- how to 23 get it done, how to react in the marketplace to data 24 security issues, certainly requires us to spend some 25 more money on advertising, you know, to -- to counteract</p>
<p style="text-align: right;">Page 301</p> <p>1 needs -- you agreed that he should do what needs to be 2 done in terms of entering into relationships with those 3 DMS providers; correct? 4 MS. WEDGWORTH: Objection. 5 MR. NEMELKA: Objection. 6 A. That's correct. 7 Q. (By Ms. Gulley) And you did, in fact, ent- -- 8 you did, in fact, direct others to enter into 9 relationships with the other DMS providers; correct? 10 MS. WEDGWORTH: Objection. 11 A. That's correct. 12 Q. (By Ms. Gulley) Now, did the other -- did 13 Dealertrack sue Reynolds? Did -- has anybody sued 14 Reynolds over their relationship with Dealertrack? 15 MS. WEDGWORTH: Objection. 16 MR. NEMELKA: Objection. 17 A. Not that I'm aware of. 18 Q. (By Ms. Gulley) Do you know who Dealertrack's 19 lawyer is? 20 MR. NEMELKA: Objection. 21 A. No. Am I supposed to? 22 Q. (By Ms. Gulley) Not necessarily. All right. 23 You were asked some questions about the financial 24 information that you received. Do you recall those 25 questions, in general terms?</p>	<p style="text-align: right;">Page 303</p> <p>1 some of the effects of what we've been -- what's been 2 necessary to do from a data security standpoint. 3 You know, that's kind of, you know, the top 4 level. And -- and to go down and enumerate a list of 5 things, it would take -- take a little while. But 6 that's one of the categories that we didn't talk very 7 much about in -- in the previous, you know, questions 8 this afternoon. 9 Q. (By Ms. Gulley) Have you made a conscious 10 choice to invest in system security since the merger by 11 acquisition with the Reynolds and Reynolds company? 12 MS. WEDGWORTH: Objection. 13 A. Yes. I come, originally, from IBM. And the 14 IBM philosophy was very, very much oriented towards 15 security. And in all the software design and 16 development, you know, that I was a part of in the UCS 17 company, data security was extremely important. And I'm 18 very, very pleased to state that, so far as I know -- 19 because we never know what we don't know -- that system 20 is totally tight and enjoys that reputation in the 21 marketplace, that it's, from a security standpoint, way 22 ahead of everybody else. 23 When I got to Reynolds, it's kind of like I 24 had been spending my life, you know, mopping and 25 polishing the floor. And I inherited this house, and it</p>

35 (Pages 300 - 303)

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<p style="text-align: right;">Page 304</p> <p>1 has two inches of water on the floor. And we don't need 2 to think about mops and brushes, we need pumps, because 3 that was the situation from a data security standpoint. 4 It was just terrible. 5 And it's been my goal, you know, since that 6 day that -- to get it into the right kind of shape. And 7 it's -- it's vastly improved. Still not there, you 8 know, there's still more work to do. And that's caused 9 by the fact that there are people on the outside, and 10 more of them every day, you know, that want to invade 11 your systems. Starting from PCs up. 12 Q. (By Ms. Gulley) Did you keep that goal a 13 secret in 2006 when UCS acquired the Reynolds and 14 Reynolds company? 15 MS. WEDGWORTH: Objection. 16 MR. NEMELKA: Objection. 17 A. Absolutely not. It's been -- it's known, you 18 know, that that was going to be one of the goals. 19 Q. (By Ms. Gulley) Reporters ever ask you about 20 it? 21 MS. WEDGWORTH: Objection. 22 A. Yes. 23 Q. (By Ms. Gulley) What did you tell them? 24 MS. WEDGWORTH: Objection. 25 A. I told them we were going to improve security.</p>	<p style="text-align: right;">Page 306</p> <p>1 Monday afternoon. And we started receiving complaints 2 from some customers saying, "What have you done?" and 3 "Why is our system running so slowly?" and "We're" -- 4 "We've checked around and we're not running any specific 5 batch jobs," you know, "What is" -- "What on earth is 6 going on?" 7 And, you know, we started, you know, 8 accessing some of those systems, and we discovered there 9 was something going on, that there was a piece of 10 software in -- in the Reynolds server. It wasn't -- it 11 was running, actually, in -- in the -- in the -- in 12 the -- the outside part of the server. But what it was 13 doing, it was -- it was adding records at a high rate to 14 the Reynolds server in the customer's location. And we 15 discovered what was happening was -- and that's that 16 Xtime was -- "abusing" would be the right word -- they 17 were just trampling their -- their permission to have 18 access to add, change and delete records. And they were 19 adding, you know, dummy, bo- -- bogus customer records 20 at a high rate. And they added some 700,000. You know, 21 just trashed customer records. 22 And that was what was slowing down the 23 servers who had called and complained. Fortunately, we 24 were able to get it shut off before it went any further. 25 Then came the cleanup problem, or the</p>
<p style="text-align: right;">Page 305</p> <p>1 Q. (By Ms. Gulley) Since that time, late Oct- -- 2 late 2006, when the acquisition occurred, how much would 3 you estimate you have invested in data security at the 4 Reynolds and Reynolds company? 5 MS. WEDGWORTH: Objection. 6 A. Probably, counting everything, which would 7 include, you know, my time, other executives' time, you 8 know, load on the technical support center answering 9 questions and issues, sales -- salemen's time dealing 10 with customers over the issue of data security, 11 additional advertising, you know, that we felt compelled 12 to -- to do simply from a -- to keep our image up in the 13 public, you know, marketplace, I wouldn't be surprised 14 if the total number, if we ever sat down to figure it 15 out, would be half a million dollars. 16 Q. (By Ms. Gulley) In response to some of the 17 questions you had begun explaining about the cost of 18 some issues related to Xtime, and you were unable to 19 finish your answer and were told that you'd be able to 20 finish it later -- so here is your chance -- what were 21 you -- what were you talking about with respect to 22 Xtime? 23 MS. WEDGWORTH: Objection. 24 MR. NEMELKA: Objection. 25 A. Well, the issue started on -- came up on a</p>	<p style="text-align: right;">Page 307</p> <p>1 cleanup issue. We found that -- that some of the -- 2 that there were some pieces of -- of junk in -- in 3 the -- these customer records that was consistent across 4 all of them. And, you know, we found that it took us 5 several days to figure this out, that we could write 6 software and we could go read the entire customer file 7 on those servers and find bad records and throw them 8 out. 9 The problem was -- and that's that, in the 10 meantime, the customers continued to operate. And as 11 the customers continued to operate, they would actually 12 transact business on some of these, you know, bogus, you 13 know, customer records. And so we were faced with the 14 issue of it wasn't just a matter of -- of going back 15 and -- and deleting customer records that we could 16 identify, we also had to identify whether or not they 17 had had any business transacted on them. Because if we 18 did, then we would lose that -- lose that data 19 completely. 20 So we ended up having a situation where 21 once we got done doing everything we could from the 22 programming standpoint, the customers had to go back and 23 find the duplicates. Because there would be a 24 duplicate, you know, customer record that was bad, but 25 yet it was still good, because it had some -- some --</p>

36 (Pages 304 - 307)

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<p style="text-align: right;">Page 308</p> <p>1 tracking some business transactions involved.</p> <p>2 And then in the last act, the customers</p> <p>3 were actually responsible for cleaning all of that up by</p> <p>4 hand. Now, what that's like -- it's like, you know,</p> <p>5 somebody that lives next door who's about half crazy and</p> <p>6 likes to shoot, and all they did is kill your dog, but</p> <p>7 they didn't hit you. I mean, so you could be happy</p> <p>8 about that. Well, but as somebody that's, you know, in</p> <p>9 charge of -- I'm kind of the executive in charge of loss</p> <p>10 prevention -- I'm saying, "Well, good God, what could</p> <p>11 have happened?"</p> <p>12 Because that same kind of logic could have</p> <p>13 occurred where they deleted all of our stuff instead of</p> <p>14 adding. They could have just as well been deleting,</p> <p>15 because they had write-back access, and if they had sat</p> <p>16 and deleted, you know, they could have destroyed God</p> <p>17 knows how much, you know, information. Why did they</p> <p>18 only get at 400 or so dealerships? I don't know. You</p> <p>19 know -- you know, the grace of God. You know, it could</p> <p>20 have been thousands.</p> <p>21 And so that's the reason why -- that I sat</p> <p>22 and thought, "How the hell can we put -- you know, we</p> <p>23 can't prevent this, because we can't stop them. But how</p> <p>24 can we fix it?" What we did was -- is we went into the</p> <p>25 software that we allowed them, you know,</p>	<p style="text-align: right;">Page 310</p> <p>1 MS. WEDGWORTH: Objection.</p> <p>2 MR. NEMELKA: Objection.</p> <p>3 A. I don't know, because we had to go back in to</p> <p>4 every application program that we allowed read/write</p> <p>5 access to and build it in. And then we also had to</p> <p>6 build the -- the database for these log transactions.</p> <p>7 And then, of course, the -- the interesting part of</p> <p>8 these log transactions -- how long do you have to keep</p> <p>9 them?</p> <p>10 Q. (By Ms. Gulley) So it's an ongoing expense?</p> <p>11 MS. WEDGWORTH: Objection.</p> <p>12 A. It's an ongoing expense, and we don't know how</p> <p>13 long we have to keep them because, in some cases that --</p> <p>14 they could have a bust where, you know, the -- the loss</p> <p>15 was minor. But yet you could have a situation, you</p> <p>16 know, where they decided -- or not decided, but where</p> <p>17 they -- through lack of programming skill, they could --</p> <p>18 they could walk on email addresses.</p> <p>19 Well, you know, you might not notice that</p> <p>20 for a couple of months. And then you'd have to go and</p> <p>21 try and fix it, which means that -- we keep a lot -- lot</p> <p>22 of file stuff, I think, for retention, seven years. I</p> <p>23 hope to God we never have to go that far back to fix</p> <p>24 anything, but somebody had to make a decision as to how</p> <p>25 long we were going to keep it, so I said seven years.</p>
<p style="text-align: right;">Page 309</p> <p>1 delete/add/change access to, and we created journalling.</p> <p>2 And what "journalling" means is -- is we take -- let's</p> <p>3 say you've got a change, you know, function going to</p> <p>4 happen. What we do is we take a snapshot of the record</p> <p>5 before they change it, log it off, and then we take a</p> <p>6 snapshot of it after -- after -- after change and log it</p> <p>7 off. And that means that we can go back and we can tell</p> <p>8 what happened. And in many cases, probably be able to</p> <p>9 restore.</p> <p>10 Unfortunately, we run into the situation</p> <p>11 where what happens in the time interval from when the</p> <p>12 incident occurs versus when we discovered they want to</p> <p>13 fix it -- which is business transactions happen on</p> <p>14 records in between.</p> <p>15 Now, the -- the logging -- you know, we can</p> <p>16 tell you which ones they stepped on, but we can't fix</p> <p>17 it. We can't do an automatic fix, because there's been</p> <p>18 business transactions that happened that, you know, we</p> <p>19 don't know about.</p> <p>20 So that's all part and parcel of -- of the</p> <p>21 Xtime story. It was a -- a rude awakening to us that --</p> <p>22 that third-party programmers could be so -- so lax and</p> <p>23 so stupid as to let something like that happen.</p> <p>24 Q. (By Ms. Gulley) How much did it cost you to</p> <p>25 build out this new protection?</p>	<p style="text-align: right;">Page 311</p> <p>1 Q. (By Ms. Gulley) In terms of what you've had to</p> <p>2 spend already in building the log-in functionality and</p> <p>3 the service base so far, are we talking thousands,</p> <p>4 millions?</p> <p>5 MS. WEDGWORTH: Objection.</p> <p>6 MR. NEMELKA: Objection.</p> <p>7 A. I would say not -- not as much as a million,</p> <p>8 but probably -- probably made a pretty good hole in</p> <p>9 700,000 or 800,000.</p> <p>10 Q. (By Ms. Gulley) Earlier, I had asked you --</p> <p>11 A. And then there's the ongoing cost. I mean,</p> <p>12 there's -- you know, the stuff that you vaulted, you've</p> <p>13 got to keep it. You've got to sell on it, you've got --</p> <p>14 you've got to spin it.</p> <p>15 Q. Earlier, I had asked you what you -- you</p> <p>16 estimated the investment in system security, and</p> <p>17 the rec- -- the -- and we just saw the transcript looked</p> <p>18 like you had said half a million. I wanted to make sure</p> <p>19 I got that right.</p> <p>20 A. No. It's half a billion.</p> <p>21 MS. WEDGWORTH: Objection.</p> <p>22 Q. (By Ms. Gulley) Say it again.</p> <p>23 MS. WEDGWORTH: Objection.</p> <p>24 A. Our total investment for data security forever</p> <p>25 and a day probably is in the order of half a billion.</p>

37 (Pages 308 - 311)

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<p style="text-align: right;">Page 312</p> <p>1 Q. (By Ms. Gulley) How do you feel about data 2 brokers? 3 MS. WEDGWORTH: Objection. 4 MR. NEMELKA: Objection. 5 A. The same way I feel about the unprintable -- 6 but, you know, certainly, in polite company -- 7 Q. (By Ms. Gulley) "The elevator speech"? 8 MS. WEDGWORTH: Objection. 9 A. You know, the problem with data brokers is -- 10 is -- you know, it starts off from a legal standpoint. 11 You know, according to Gramm-Leach-Bliley, you know, 12 dealerships are considered financial institutions. And 13 as such, they have certain responsibilities. 14 There's also another act that -- that 15 applies directly. And what it says in -- in short order 16 is -- and that's that a dealership is considered a 17 financial institution. And they're responsible for the 18 security of the data that they accumulate in their 19 process of arranging financing. If they are to use a 20 third-party service provider, they must have a contract 21 with that service provider, you know, that specifies 22 who's responsible for what, who indemnifies who and what 23 the liabilities are and so forth. 24 A data broker, in the -- in the simplest 25 sense, what they're doing is they're extracting data out</p>	<p style="text-align: right;">Page 314</p> <p>1 license to do that, your license covers only your 2 employees and direct agents. 3 Q. (By Ms. Gulley) How long have you had those 4 restrictions against the use of third-party data 5 brokers? 6 MS. WEDGWORTH: Objection. 7 A. I think in the case of UCS software, it's been 8 at least 25 or 30 years. As far as Reynolds is 9 concerned, when I got there 12 years ago, they were 10 already there, and had been around for a while. But I 11 don't know how long. 12 Q. (By Ms. Gulley) If -- during this deposition, 13 we've heard you, on numerous occasion, call data 14 brokers, like, Authenticom "hackers and bandits"; is 15 that correct? 16 MS. WEDGWORTH: Objection. 17 MR. NEMELKA: Objection. 18 A. That's correct. 19 Q. (By Ms. Gulley) Why do you feel -- what -- 20 what are the risks to Reynolds system such that you 21 would give them those names, "hackers and bandits"? 22 MS. WEDGWORTH: Objection. 23 MR. NEMELKA: Objection. 24 A. Well, first of all, what they're doing is -- 25 and that's that they have used -- and Steve Cottrell has</p>
<p style="text-align: right;">Page 313</p> <p>1 of a dealership system. It's got to be a contract 2 there. And then, you know, whoever that they send the 3 data to, there's got to be another contract there. So 4 there -- there's this, you know, myriad of -- of 5 contracts that are required in order to be legal. 6 Data brokers is -- you know, they're -- 7 they're little, small companies for the most part, 8 and they don't have the resources to do that. They, in 9 many cases, are kind of oblivious to -- to the fact 10 that, you know, they are required to do all of these -- 11 these things according to the law. 12 And so therefore, in my opinion, they're 13 absolute outliers. Secondly, there's called a -- it's 14 called a Computer Fraud and Abuse Act. Computer Fraud 15 and Abuse Act is very, very clear that if you enter into 16 a computer system, and the software on a computer 17 system, if you're not you authorized to do so, you're in 18 violation of that law. 19 Well, people don't pay a lot of attention 20 to the fact that -- that Reynolds owns the software 21 that's on every dealership system. If they license that 22 software to the dealer and the license is not an 23 unlimited license, it's very much a limited license that 24 says that you cannot, you know, allow a third party to 25 access or to use that software because you have no</p>	<p style="text-align: right;">Page 315</p> <p>1 admitted in open court how often that he had worked, you 2 know, gaining entrance, you know, getting passed the 3 security barriers, to access Reynolds software. And I 4 think that qualifies him for the name "hacker." 5 You know, what the big worry is -- and 6 that's that to the extent that a third-party hacker is 7 involved, there's a security breach and that there's 8 going to be all hell to pay. And, you know, we've been 9 through this. You know -- this is -- was my first -- 10 matter of fact, that's how I met Michael. It was a 11 Chevrolet dealership by the name of Franklin, and I 12 don't know where they were in the company -- in the 13 country, but the general manager of that dealership had 14 access to a master password. And he could run any kind 15 of reports or any kind of listings that -- that he 16 wanted. Which, that's not unusual for, you know -- he 17 was the onsite person in charge. He was the general 18 manager. 19 Well, he used that -- that password 20 authority to download the entire customer files of that 21 customer -- of that dealership onto his laptop. And 22 when he left -- and I don't know under what 23 circumstances he left, but it kind of sounds like maybe 24 not nice circumstances -- he saw fit to post the 25 customer database in its entirety on the Internet.</p>

38 (Pages 312 - 315)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 316</p> <p>1 And there were, you know, people whose 2 names and information was posted that were not happy, 3 and they called the FDC. And the FDC came down on that 4 dealer and said, you know -- I don't know whether they 5 had their guns drawn or not, but I mean, they -- they 6 were -- it was -- it was very shocking -- and asked the 7 dealer what on earth he had done. The dealer was, like, 8 completely unknowledgeable of what all happened. And as 9 they talked to him some more, he said, "Look, I 10 understand what you're talking about. You need to talk 11 to Reynolds. They're our computer guys, they'll know 12 everything." 13 So the next thing we know, we have FTC on 14 our door, and we don't know much about dealing with the 15 FTC. Matter of fact, never been around them at all. 16 And -- but fortunately -- fortunately, we got a good 17 piece of advice from one of -- one of our outside 18 attorneys -- 19 MS. GULLEY: Okay. So you can't talk about 20 privileged information. I'm sorry, sir. 21 THE WITNESS: Oh, okay. 22 Q. (By Ms. Gulley) But -- but you're talking 23 about the FTC. You're not talking about antitrust, 24 you're talking about the privacy people; is that right? 25 A. I'm talking about the privacy people. Can I</p>	<p style="text-align: right;">Page 318</p> <p>1 (Brief discussion.) 2 (Exhibit 274 was marked for 3 identification.) 4 Q. (By Ms. Gulley) I'm marking and handing to you 5 Defendant's Exhibit 274. Less you think the plaintiff's 6 and defendants' numbers are widely disparate, the 7 plaintiff's skipped numbers. Ours -- we did not. 8 Here's Defendant's 274. 9 (Brief discussion.) 10 Q. (By Ms. Gulley) Take a minute to review 11 Defendant's 274. 12 A. I'm -- I'm familiar with this. 13 Q. Who's Robert T. Brockman, II? 14 A. He's my son. 15 Q. We were discussing a moment ago the Franklin 16 incident. What is -- what is this about, the -- 17 Defendant's Exhibit 274? 18 MS. WEDGWORTH: Objection. 19 A. This one here is -- is -- I believe is 20 DealerBuilt. DealerBuilt, if I can recall what happened 21 on that one, they had a lot of very sizeable customers. 22 And they were sending backups of the local server in the 23 dealership back to a central point. And when they 24 transmitted the data, it wasn't encrypted. And it 25 caused the exposure of -- I want to say, like, 400,000</p>
<p style="text-align: right;">Page 317</p> <p>1 talk about that? 2 Q. No. 3 A. No? 4 Q. You cannot reveal privileged information. 5 MS. WEDGWORTH: Objection. 6 Q. (By Ms. Gulley) But -- 7 A. I can say, you know, what -- what the effect 8 was on us. 9 Q. What was the effect on you of the FTC's 10 investigation into -- 11 A. Well, we obviously -- 12 Q. -- Franklin? 13 MS. WEDGWORTH: Objection. 14 MR. NEMELKA: Objection. 15 A. We obviously started spending a bunch of money, 16 a whole pile, simply to convince the FTC that we did 17 nothing wrong. The computer system was not in any way 18 at fault or involved. 19 But it doesn't take much of a leap in my 20 mind to think about, "Well, what if the computer system 21 was involved? What -- what if something happened that 22 caused a breach? We better be prepared for all hell to 23 break loose and then it would be really expensive." And 24 so the idea of having any kind of data broker involved 25 in any of that kind of process to me is not smart --</p>	<p style="text-align: right;">Page 319</p> <p>1 or so, that they know of, you know, individual customer 2 records were exposed. 3 And that meant that -- in any kind of data 4 exposure, you know, the first -- the first cost is \$2 5 apiece it costs you per name to send a registered letter 6 to the person whose data was exposed and to tell them 7 that their data has been exposed and they should be 8 cautious about, you know, what's happening. Because 9 their -- you know, their personal information may have 10 gotten into the wrong hands of some bad people. 11 And then, after that, you start dealing 12 with the FTC, which I -- I don't have any knowledge to 13 what that cost in this particular situation, but I bet 14 it was a bunch. And I think this was one of the first 15 wake-up calls of a really large data breach in the 16 automotive business that we know about. 17 Because we always have to remember -- it's 18 kind of like in -- in the banks where they have worries 19 about bad people stealing money from the banks 20 internally. You never hear about those. Now, maybe 21 that's because none of them ever happen. I don't think 22 that's the case. I think they're concerned about the 23 publicity. I think they're concerned about bad guys 24 getting ideas. And, you know, that's certainly what 25 could be happening here.</p>

39 (Pages 316 - 319)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 320</p> <p>1 Q. (By Ms. Gulley) Would you read what you sent 2 to your son, for the record? 3 A. Yeah. It's short. Three words. "It finally 4 happened. Love, Dad." 5 Q. What did you mean when you said that? 6 MS. WEDGWORTH: Objection. 7 A. Well, he and I have had conversations about 8 this a lot. You know, my son has a degree in computer 9 science from Rice University, along with a master's in 10 electrical engineering and an MBA. And he's -- he's 11 interested in these kind of things, so we talk about 12 them. He's 44 years old. I don't know if he's quite 13 grown yet, but he's getting there. 14 Q. (By Ms. Gulley) What do you mean by "finally"? 15 A. Well, I -- I've been predicting it for a long 16 time, and so it -- it was -- while it was an unhappy 17 situation, at least it serves the fact that I've not 18 been worrying in vain. We have -- we have -- in terms 19 of numbers of dealerships, you know, numbers of customer 20 records and whatever, we obviously has vastly more than 21 DealerBuilt did. 22 Q. Have you been criticized for that? 23 A. I've been criticized a lot for -- for data 24 security, which is incredible. But I think what really 25 happens in -- in the dealership world is -- and that's</p>	<p style="text-align: right;">Page 322</p> <p>1 A. Yes. 2 Q. All right. This is a series of emails and a 3 report relating to the Randall Reed dealership. Do you 4 recall this exchange? 5 MS. WEDGWORTH: Objection. 6 A. Yes, I do. 7 Q. (By Ms. Gulley) In the very top email, sent 8 September 17, 2013, from you, you say, "Chris, the 9 attached report shows the scheduled unattached 10 automatically run reports being run on Randolph Reed's 11 345 server." Do you see that? 12 MR. NEMELKA: Objection. 13 A. Yes, I do. 14 Q. (By Ms. Gulley) And then what did you say? 15 MS. WEDGWORTH: Objection. 16 A. It says, "It's a wonder that this box runs at 17 all, much less running docuPAD with acceptable response 18 times." 19 Q. (By Ms. Gulley) What does that mean? 20 MS. WEDGWORTH: Objection. 21 A. Well, what's happened here in this -- the 22 customer, this Randall Reed company has called up, you 23 know, very, very, very unhappy that their 345 server -- 24 and this is an older server. This is a server that 25 probably -- the last one was manufactured 15 years ago.</p>
<p style="text-align: right;">Page 321</p> <p>1 that it's not the dealer. It is the -- it is the 2 department head who, short term, you know, wants to get 3 his -- what he wants to get done, what he wants to get 4 done. He doesn't care about security. He may not even 5 be around that dealership next year. He has a very 6 short-term outlook. 7 He is completely -- from a liability 8 standpoint, it's not going to be his personal liability. 9 He's worried about getting done whatever he can get done 10 so his bonuses at the end of the month is -- is good 11 at -- as good as it could be. He's a very short-term 12 thinker. And those are the people that make the most 13 noise, you know, when -- when security enhancements take 14 place. 15 Inevitably, when you -- when you get to the 16 dealer and explain to him the liabilities that are 17 floating around and -- and what -- what -- what's going 18 on, what we're trying to prevent, you know, the dealer 19 says, "Okay, we understand." 20 Q. I'm going to hand you Defendant's 275. Take a 21 moment to look at that. 22 (Exhibit 275 was marked for 23 identification.) 24 Q. (By Ms. Gulley) Have you had a chance to look 25 at that?</p>	<p style="text-align: right;">Page 323</p> <p>1 It's that old. And it is overrun with batch jobs such 2 that docuPAD response time is not as good as it ought to 3 be. Of course, when you run this report -- 4 Q. (By Ms. Gulley) And just for the record, 5 you're looking at the attachment? 6 MR. NEMELKA: Objection. 7 A. These are a list of -- of -- of what we call 8 "scheduled batch jobs." And it -- it shows the user ID 9 that set it up in the first place, and then a 10 description of what it is, and then how many stores it's 11 located -- not how many -- which store numbers -- which 12 store number -- this first one is in Store No. 9. 13 And then it shows whether it's a report 14 generator or query builder or a download. And then how 15 many hours a day did that -- did it run? It runs every 16 1 and 1/2 minutes, 13 and 1/2 hours a day. 17 So what's happened is -- and that's -- and 18 this reports an available report on -- on every system. 19 The customer has completely dumb-assed themselves. 20 And -- and what they've done is they've completely 21 ignored the fact that all computers have finite 22 resources, and you cannot load on them, you know, 23 immense amounts of work. And this is probably the worst 24 example I've ever seen about this. 25 And it's -- typically, a lot of these --</p>

40 (Pages 320 - 323)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 324</p> <p>1 these automatically scheduled reports, that is a sure 2 sign of a hacker. Because what they're doing is -- and 3 that's they want the report run at a specific time where 4 they can go back and get it and -- and pull it off to, 5 you know, their computer in the sky. 6 So I found this one interesting. I mean, 7 it, you know -- this one's so bad, you got to laugh. 8 Just -- it's -- it's, you know, just beyond the pale. I 9 mean, this one here, when we have a -- a place on the 10 wall of our computer history where we have an example of 11 the worst use ever of remotely unattended batch jobs, 12 this is it right here. 13 Q. (By Ms. Gulley) Look at the -- the -- you see 14 that the rows are numbered -- Row 9? Maybe yours aren't 15 numbered. So going down nine spots -- guys, I've just 16 put an arrow -- so one, two, three, four, five -- and 17 for the record, I've put an arrow at "Superior." That's 18 where I want you to look. 19 A. Okay. 20 Q. Who is that? What is that? What do you think 21 that is? 22 A. I think that's Phil Bautista. 23 Q. So is Superior Solutions a hostile data broker? 24 MS. WEDGWORTH: Objection. 25 MR. NEMELKA: Objection.</p>	<p style="text-align: right;">Page 326</p> <p>1 THE VIDEOGRAPHER: This is the beginning of 2 Media 4. We're back on the record at 3:31 p.m. 3 EXAMINATION (Continuing) 4 BY MS. GULLEY: 5 Q. When we were talking about Xtime earlier, I 6 don't think I circled around to this question. The 7 Xtime situation that you described, how does that relate 8 to the transaction fee issue that Ms. Wedgworth was 9 asking you about? 10 A. The -- the process of -- of somebody -- some 11 entity like Xtime doing add/change/delete write-back 12 information, what that does is that generates a bunch of 13 extra work we've got to do. Plus, we've got to save the 14 before-and-after images. And we did it on a 15 per-transaction basis simply because we believed that it 16 would always be a number of RCI customers that don't 17 need that, because they're not doing add/change/delete 18 write-back. 19 And therefore, it would be unfair just to 20 have a cover-blanket increase to cover the cost of doing 21 that. We put it on -- on the third parties that are 22 actually using that -- that facility. 23 Q. Do you know what the impact of that transaction 24 fee has been on the number of write-back transactions? 25 MS. WEDGWORTH: Objection.</p>
<p style="text-align: right;">Page 325</p> <p>1 A. They are. Of the worst kind. 2 Q. (By Ms. Gulley) Are they -- are they in the 3 same space as Authenticom? 4 MR. NEMELKA: Objection. 5 A. Yes. 6 Q. (By Ms. Gulley) All right. And so how 7 frequently was SIS accessing this Reynolds system at 8 this time? 9 MS. WEDGWORTH: Objection. 10 A. Every two and a half minutes. And accumulating 11 four and a half hours a day worth of compute time. 12 Q. (By Ms. Gulley) What impact can that have on 13 Reynolds technology? 14 MS. WEDGWORTH: Objection. 15 MR. NEMELKA: Objection. 16 A. It -- it overloads it. Even a really good 17 server, you know, shouldn't have anything like that 18 running. And you're pretty good. I didn't catch that. 19 MS. GULLEY: Let's go off the record and 20 take a break. We've been going a while without a good 21 break. I'm going to still be on when I -- when we come 22 back. 23 THE VIDEOGRAPHER: This is the end of Media 24 3. The time is 3:16 p.m. We're off the record. 25 (Short recess 3:16 to 3:31 p.m.)</p>	<p style="text-align: right;">Page 327</p> <p>1 A. I -- I'm sure that it has been reduced, because 2 I think before that, there were -- there was no -- no 3 charge for write-back transactions. And so once there 4 became a charge, they came back and changed how they -- 5 how they did things. Some cases, you know, for 6 instance, they would want to update a repair order or 7 update a service reservation, you know, frequently. You 8 didn't really need to do that. 9 Q. (By Ms. Gulley) So what's the impact on the 10 system load now? 11 MS. WEDGWORTH: Objection. 12 MR. NEMELKA: Objection. 13 A. It -- it improved the situation from the system 14 load but, you know, the -- there's still the logging. 15 You know, it is a fair amount of overhead. 16 Q. (By Ms. Gulley) Another topic you talked about 17 over the last couple of days is the automated access to 18 the Reynolds system. Does Reynolds allow its customers 19 to provide automated access to third parties? 20 MS. WEDGWORTH: Objection. 21 Q. (By Ms. Gulley) Themselves? 22 MS. WEDGWORTH: Objection. 23 A. No. They're -- they're not allowed to do that 24 and the security changes won't -- won't let that happen. 25 Q. (By Ms. Gulley) But what if an automated third</p>

41 (Pages 324 - 327)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 328</p> <p>1 party says, "Oh, no, we're the agent of the dealer." 2 Does Reynolds allow that? 3 MS. WEDGWORTH: Objection. 4 A. No. 5 Q. (By Ms. Gulley) You also mentioned, several 6 times, Reynolds reporting functionality. Can dealers 7 give their operational data out to third parties? 8 MS. WEDGWORTH: Objection. 9 A. Yes. 10 Q. (By Ms. Gulley) And so on the one hand, we 11 talked about system access, no automated access, but 12 they can provide their data. How can they do that? 13 MS. WEDGWORTH: Objection. 14 A. We have a -- a data reporting facility. And 15 what they can do is -- and that's they can -- say, for 16 instance, run a print job that's not ever printed. 17 Instead, it's sent to disk and then they -- they 18 transmit that data in that dataset outside in -- as far 19 as we're concerned, you know, once they do it 20 themselves, we're out of the track. 21 Q. (By Ms. Gulley) So if Authenticom was the 22 recipient of that data from the dealer, is that 23 permitted? 24 MS. WEDGWORTH: Objection. 25 MR. NEMELKA: Objection.</p>	<p style="text-align: right;">Page 330</p> <p>1 Q. (By Ms. Gulley) Ms. Wedgworth had said -- or, 2 no, I'm sorry, it was Mr. Nemelka had called it a 3 "five-year agreement." The agreement was 2015, five 4 years is 2020. Was it a five-year agreement? 5 MR. NEMELKA: Objection. 6 MS. WEDGWORTH: Objection. 7 A. No. It was an agreement until the -- the 8 stand-down process had been -- had been completed, which 9 it was completed, satisfactorily. 10 Q. (By Ms. Gulley) Ms. Wedgworth asked you about 11 exempted user IDs in various contexts. Are exempted IDs 12 exempted from all Reynolds security policies? 13 MS. WEDGWORTH: Objection. 14 A. No. Only for specific security policy issues. 15 Q. (By Ms. Gulley) Who's knowledgeable on that -- 16 those issues? 17 MS. WEDGWORTH: Objection. 18 A. Maybe Kelly Hall. 19 Q. (By Ms. Gulley) All right. We've also talked 20 about DMS competition. Do dealers change DMS providers? 21 A. Yes, they do. 22 Q. Do dealers switch away from Reynolds? 23 A. Yes, they do. 24 Q. Do dealers switch away from CDK? 25 MR. NEMELKA: Objection.</p>
<p style="text-align: right;">Page 329</p> <p>1 A. Yes. 2 Q. (By Ms. Gulley) I'm sorry? 3 A. Yes. I think there was one -- one of the, you 4 know, big users of -- I can't remember. It's -- it's 5 not a good example. 6 Q. What -- what about CarFax? If the dealer 7 wanted to download its information and send it to 8 CarFax -- 9 A. That's what I was thinking about. 10 MS. WEDGWORTH: Objection. 11 MR. NEMELKA: Objections. 12 A. And they do. 13 Q. (By Ms. Gulley) I did not know you were 14 thinking that, by the way. 15 A. Yeah. They do. They use -- they use a 16 reporting mechanism and download their data to CarFax 17 and, as a result, CarFax is -- never became an RCI 18 customer. And that's fine. 19 Q. (By Ms. Gulley) As well? 20 MS. WEDGWORTH: Objection. 21 A. Yes. (Inaudible.) 22 Q. (By Ms. Gulley) Is the wind-down agreement 23 between Reynolds and CDK from 2015 still in effect? 24 MS. WEDGWORTH: Objection. 25 A. No.</p>	<p style="text-align: right;">Page 331</p> <p>1 A. Yes, they do. 2 Q. (By Ms. Gulley) Do they switch away from Cox 3 Automotive Dealertrak? 4 MS. WEDGWORTH: Objection. 5 MR. NEMELKA: Objection. 6 A. Yes, they do. 7 Q. (By Ms. Gulley) Now, you had mentioned there, 8 you do not have an agreement between Reynolds and Cox 9 Automotive Dealertrack with respect to conversions; is 10 that right? 11 MS. WEDGWORTH: Objection. 12 A. Correct. 13 Q. (By Ms. Gulley) But dealers, nevertheless, 14 leave Cox Aut- -- are able to switch between Reynolds 15 and Cox; correct? 16 MS. WEDGWORTH: Objection. 17 A. That's correct. That process is -- is really, 18 you know, relatively simple. What you do is -- and 19 that's that you -- you print off a bunch of reports -- 20 and I say "print off" -- you run a bunch of print jobs, 21 but don't print them off. Instead, you send them to 22 disk. And then that disk or thumb drive goes to the 23 assuming, you know, competitive system, and then they 24 run a series of software programs that parse the printed 25 information and put it into data records. And that</p>

42 (Pages 328 - 331)

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<p style="text-align: right;">Page 332</p> <p>1 is -- that's how we convert any non-CDK, you know, 2 customer. For instance, if we convert a Dealertrack 3 customer, we do it all with print jobs, and are very 4 familiar with it doing it. It's really very simple 5 programming. It's Tab A, Slot B. You know, it's very, 6 very simple programming. 7 Q. (By Ms. Gulley) Let me hand you what 8 Ms. Wedgworth marked Plaintiff's 657. This is the draft 9 letter to Hendrick discussed between you and Mr. Lamb. 10 Do you recall that area of questioning? 11 A. Yes. 12 Q. So just now, you gave an example of a dealer -- 13 how -- how you would convert a dealer other than a CDK 14 dealer; is that accurate? 15 MS. WEDGWORTH: Objection. 16 A. That's right. (Inaudible.) 17 Q. (By Ms. Gulley) Now, in this draft letter that 18 Mr. Lamb wrote, he discusses a -- a drop in sales and 19 other costs of a conversion away from Reynolds. Do you 20 remember that? And I'm looking at this -- this page 21 with the chart ending in 023. 22 MS. WEDGWORTH: Objection. 23 A. Yes. 24 Q. (By Ms. Gulley) Now, would you expect a dealer 25 that was switching away from a different DMS provider</p>	<p style="text-align: right;">Page 334</p> <p>1 So the date of this email exchange is in early September 2 2015. What does Hendrick do after September 2015, after 3 this pitch was made? 4 MS. WEDGWORTH: Objection. 5 MR. NEMELKA: Objection. 6 A. Really, really, you know, unhappy thing. 7 They -- they issued termination notices to us and 8 announced that they're going to CDK. And I was very 9 disappointed. 10 Q. (By Ms. Gulley) Did they sign a contract with 11 CDK? 12 MS. WEDGWORTH: Objection. 13 A. Yes, they did. 14 Q. (By Ms. Gulley) So they switched to CDK? 15 MS. GULLEY: Objection. 16 A. They didn't. They didn't switch yet. 17 Q. (By Ms. Gulley) They decided to switch? 18 MS. WEDGWORTH: Objection. 19 A. They decided to switch. They contracted to 20 switch. And then -- which is a further, you know, 21 longer story -- they decided to switch. And then, as 22 the switch began, it began first with a very small 23 dealership that was, basically, a new start. And they 24 had all new people and it was -- you know, therefore 25 pretty easy, pretty simple conversion job, which went</p>
<p style="text-align: right;">Page 333</p> <p>1 into Reynolds to have the same sort of costs? 2 MS. WEDGWORTH: Objection. 3 A. Yes. You know, if we were converting them off 4 of Dealertrack, you know, we would go through the same 5 process. And I -- I've tried to make the point that the 6 greatest variable in any kind of conversion is whether 7 or not, you know, the dealership personnel are motivated 8 and actually take their courses, pass their tests and 9 learn how to new -- use the new software. And that's 10 key. And it's more important than anything else. 11 Q. (By Ms. Gulley) Does Reynolds help customers 12 do that? 13 MS. WEDGWORTH: Objection. 14 A. Yes. We have an education department and we 15 have onsite installers, and we have remote install 16 support people as well. 17 Q. (By Ms. Gulley) Would you consider yours 18 superior or inferior to CDK's? 19 MS. WEDGWORTH: Objection. 20 A. Well, I think that without question. We're 21 superior. But that's -- you know, that -- that's the 22 nature of -- of our business model. What we try to do 23 is -- is -- we're not the cheapest. Don't want to be 24 the cheapest. We want to be the best. 25 Q. (By Ms. Gulley) Turn back to that first page.</p>	<p style="text-align: right;">Page 335</p> <p>1 okay. 2 The second dealership that they converted 3 was a monster Toyota dealer, which is within eyesight of 4 Hendrick's headquarters. And it was a -- an absolute 5 disaster from the conversion standpoint. But not 6 because of the software, not because of the systems, not 7 because of the data conversion, not because of anything 8 like that. 9 There is a process that is very, very 10 important in the service department, which it's called 11 "opcodes." And opcodes are -- they're unique to each 12 dealership. Each dealership has kind of built their own 13 opcode structure. And typically, it's a two-digit or a 14 three-digit number. And its whole purpose is -- is to 15 save time in typing. When you're opening up a repair 16 order, there's a tremendous amount of keystroke-kind of 17 work that has to be done. And the opcodes shorten that 18 dramatically. 19 Well, there had been an initiative inside 20 Hendrick, which had not been accomplished or even 21 attempted, which was to standardize opcodes amongst all 22 105 dealerships. And the goal -- or the reason to do 23 that was, that way you could move a service advisor from 24 one dealership to another dealership, and he would not 25 have to relearn the opcodes. Because if you put a</p>

43 (Pages 332 - 335)

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<p style="text-align: right;">Page 336</p> <p>1 service adviser into an environment where there's all 2 new opcodes, he's crippled, because he has to look up 3 whatever opcode it is. And -- and he has to keep doing 4 that until he's finally memorized, you know, whatever 5 the new set of opcodes are from the place he's been 6 transferred to.</p> <p>7 They wanted to avoid that forever and all 8 time. Unfortunately -- and I don't know the exact -- 9 who talked to who about what, but the upshot was -- and 10 that's that Hendrick decided -- and -- and CDK let them 11 change the opcodes on the day of conversion to the new 12 system.</p> <p>13 And the result was -- and that's that, you 14 know -- it's always been on Monday mornings, people 15 always bring their cars in, and they've kind of made 16 their to-do list over the weekend and -- you know, day 17 one is, you know, you bring your car into do this or do 18 that. So there's a lot of -- right -- typical Monday 19 morning.</p> <p>20 The process of opening a repair order was 21 absolutely crippled, because it was all new opcodes and, 22 you know, the service advisors had to look up every 23 opcode, which just, you know, really made it proceed at 24 a snail's pace. Which meant that the -- the technicians 25 who were paid on incentive programs, they did not get</p>	<p style="text-align: right;">Page 338</p> <p>1 "Mr. H.," as he's called -- he's very low-key kind of 2 guy. And he -- he went around and just kind of talked 3 to folks, you know, after, you know, the initial fire 4 had been quenched. And he walked up to a -- a CDK 5 installer and, you know, talked to him, you know, "Well, 6 how are you? My name is Rick Hendrick." Shook his 7 hand. Rick's -- you know, Rick's a hero figure in -- in 8 car racing. He's one of "the" guys. And he was talking 9 to this one young person and, you know, in the course of 10 the conversation, he's -- he asked, well, "How long have 11 you been with CDK?"</p> <p>12 And the person answers, "Well, I'm not with 13 CDK. I'm -- I'm a contractor."</p> <p>14 "Oh, really? Okay. How long have you been 15 a contractor?" and so forth. And he talked to several 16 others, you know, kind of got the same answer. And he 17 realized that he had been promised the best install team 18 and he had not gotten it. And Rick Hendrick's the kind 19 of person -- he's a very simple person. You only get to 20 lie to him once.</p> <p>21 And the next day he called us up and said, 22 "Bob," you know, "we've got problems. If you won't 23 punish us, we'd like to come back."</p> <p>24 And the answer is, obviously, "Whatever our 25 last proposal is, that's it."</p>
<p style="text-align: right;">Page 337</p> <p>1 work to do until almost noon. And they were not happy 2 about that. They lost half a day's pay.</p> <p>3 But everybody, I think, had a little bit 4 of, you know, forgiveness built in, because, after all, 5 they were converted to the new system and it was -- 6 they -- they expected some things not to go right.</p> <p>7 The second day, it didn't get any better.</p> <p>8 And by noontime, you know, the techs were absolutely up 9 in arms. It was an absolute up rising. And they were 10 saying -- which is absolutely true -- they were top 11 technicians, some of them had been with Hendrick 25 12 years or more, and they were just wailing. And so the 13 call for help went out to -- Mr. Hendrick needed to come 14 and address the group, which he did. And he did a smart 15 thing. He said, "Guys, I promise you, you're going to 16 make 10 percent more this month than you've ever this 17 year. Be patient with us."</p> <p>18 The techs said, "Okay, we understand."</p> <p>19 And then another interesting thing 20 happened. Success of data conversions has a lot to do 21 with the quality of personnel, experienced personnel, 22 really. Obviously, there was -- there was some real 23 lack of experience, because the CDK conversion group 24 should have resisted this idea -- this crazy idea of 25 changing opcodes on the first day of installation. So</p>	<p style="text-align: right;">Page 339</p> <p>1 And so they came back. And, you know, 2 that's probably one of the most amazing, you know, 3 conversion stories that I've ever heard and -- and the 4 software, our software, had nothing to do with it. You 5 know, CDK's software had nothing to do with it. There 6 was nothing wrong with the hardware. Probably not that 7 much wrong with the people. If they had just not 8 changed opcodes.</p> <p>9 Q. (By Ms. Gulley) Why did you lose Hendrick in 10 the first place?</p> <p>11 MS. WEDGWORTH: Objection.</p> <p>12 A. Well, that's a very pertinent question. Mr. Ed 13 Brown is, nominally, the president, is a required 14 banker. He was with Bank of America there in Charlotte 15 for 30 some-odd years. He retired. And he had banked 16 Rick over the years and knew him well.</p> <p>17 And Rick decided that he wanted to spend 18 more time racing, and he hired Ed Brown. And Ed Brown 19 knows nothing about computers. He probably -- by now, 20 he knows a little bit about dealerships but, you know, 21 that's not been -- he's definitely not what you would 22 call a -- an experienced automotive executive. And I 23 think what he wanted to do is he wanted to go do 24 business with CDK because they were a big public company 25 and we're not.</p>

44 (Pages 336 - 339)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 340</p> <p>1 Q. (By Ms. Gulley) So he just decided to switch?</p> <p>2 MS. WEDGWORTH: Objection.</p> <p>3 A. So he decided to switch. And, you know, Mr. H.</p> <p>4 had promised me -- he said, "Bob, I promise you that I</p> <p>5 will never, ever let the decision of this magnitude go</p> <p>6 by without me personally being involved."</p> <p>7 And I said, "Rick, you really need to do</p> <p>8 that."</p> <p>9 Q. (By Ms. Gulley) Did he promise he'll stay with</p> <p>10 you?</p> <p>11 MS. WEDGWORTH: Objection.</p> <p>12 A. Well, he signed a five-year contract, and he</p> <p>13 has almost doubled their billing with additional stuff</p> <p>14 that they bought. They bought over 400 docuPADs.</p> <p>15 Q. (By Ms. Gulley) Let's talk about docuPAD for a</p> <p>16 minute. Does every Reynolds dealer have a docuPAD?</p> <p>17 MS. WEDGWORTH: Objection.</p> <p>18 MR. NEMELKA: Objection.</p> <p>19 A. No. That -- That's our goal, but I mean --</p> <p>20 we've not yet achieved that.</p> <p>21 Q. (By Ms. Gulley) Now, if dealer -- if a dealer</p> <p>22 wanted to use docuPAD with another DMS, would you</p> <p>23 consider that?</p> <p>24 MS. WEDGWORTH: Objection.</p> <p>25 A. There -- there's technical issues that just</p>	<p style="text-align: right;">Page 342</p> <p>1 with Ms. Wedgworth, you used a number of terms like</p> <p>2 "profit producer" or "revenue generator." Do you</p> <p>3 remember that discussion?</p> <p>4 A. Yes.</p> <p>5 MS. WEDGWORTH: Objection.</p> <p>6 Q. (By Ms. Gulley) You called it "sticky," right?</p> <p>7 MS. WEDGWORTH: Objection.</p> <p>8 A. Yeah, it is -- it is so compelling from a money</p> <p>9 standpoint that we think that dealers will stick with it</p> <p>10 simply because it would make economic -- you know, it</p> <p>11 wouldn't be sensible to change.</p> <p>12 Q. (By Ms. Gulley) So I think the -- so the</p> <p>13 record is clear -- it's not entirely clear in the</p> <p>14 record, who you're talking about. Who is making all of</p> <p>15 this revenue? Who is generating all of this -- who's</p> <p>16 producing all of this profit?</p> <p>17 MS. WEDGWORTH: Objection.</p> <p>18 A. The dealer is. And -- and it's occurring</p> <p>19 because of what, you know, what I think is nigh onto a</p> <p>20 miracle. Because I -- I -- in the original conception,</p> <p>21 I never dreamed it would do it.</p> <p>22 What happens is -- and that's that the</p> <p>23 finance and insurance part of the business is typically</p> <p>24 called a "business office." And, you know, the part of</p> <p>25 the sales process of buying a car -- where it occurs is</p>
<p style="text-align: right;">Page 341</p> <p>1 prohibit that. You know, there's -- one of the -- one</p> <p>2 of the magic screens in -- in docuPAD is a screen</p> <p>3 where -- will be displayed of some add-on.</p> <p>4 You know, for instance, like an extended</p> <p>5 warning for, you know, repair. There will be a</p> <p>6 good/better/best -- that kind of choice and -- and the</p> <p>7 consumer, with their -- with their stylus on their side</p> <p>8 of the table actually checks which one they want, and</p> <p>9 they will instantly display what their payment is in the</p> <p>10 corner.</p> <p>11 And then they can -- they can tap on the</p> <p>12 "Better Policy," and it will change the payment for</p> <p>13 them. And then it will check -- they'll tap on the</p> <p>14 "Best Policy" and it will give them what the payment is.</p> <p>15 And they can choose which one they want or none.</p> <p>16 They can -- they -- go back and click on</p> <p>17 the "None" button, and it will (verbally indicating) --</p> <p>18 it will keep on changing, you know, the payment.</p> <p>19 Well, how does he get that done? What it</p> <p>20 does is -- is it -- it is built right into the Reynolds</p> <p>21 F&I system. And, you know, therefore, we can't -- we'd</p> <p>22 like to consider selling it to, you know, non-Reynolds</p> <p>23 customers, but we can't from a technical standpoint. It</p> <p>24 would just -- the rework would be just huge.</p> <p>25 Q. (By Ms. Gulley) Also in talking about docuPAD</p>	<p style="text-align: right;">Page 343</p> <p>1 after you've decided what car that you want. It's after</p> <p>2 you've decided what kind of financing, it's after you've</p> <p>3 decided on what trade-in value you're going to have.</p> <p>4 All that's done and everybody kind of shakes hands on</p> <p>5 the deal.</p> <p>6 And then, after a little bit, you're sent</p> <p>7 to the business office to finalize the paperwork. Okay?</p> <p>8 That's where there's this final attempt to sell you</p> <p>9 things. And it's all kinds of things. It's extended</p> <p>10 warranties. It is tire and wheel protection. It's, you</p> <p>11 know, electronic key, locks. It's -- it's windshield</p> <p>12 cracks. It is what they call "rust and dust," which is,</p> <p>13 you know -- it's fabric protectant inside. It used to</p> <p>14 be undercoating, but nobody undercoats anymore.</p> <p>15 But it -- it's a very, very essential</p> <p>16 profit center for the dealership. Unfortunately, it is</p> <p>17 ranked very, very high in customer dissatisfaction. And</p> <p>18 people who have been through the process are warned that</p> <p>19 what you do is you cross your arms like this</p> <p>20 (indicating) when you go in there, and the answer to</p> <p>21 everything they say is, "No." "No." "No." "No." And</p> <p>22 you do that long enough, they'll finally let you loose</p> <p>23 and you can go away with your new car.</p> <p>24 What happens in the docuPAD situation is we</p> <p>25 completely changed that whole process. Instead, you</p>

45 (Pages 340 - 343)

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<p style="text-align: right;">Page 344</p> <p>1 know, the consumer comes in, they sit on their side of 2 the table, and there's this big flat screen that's about 3 so high (indicating) and the whole transaction is -- 4 takes place there. And the customer is given a stylus, 5 and they basically -- it's a menu system. They get to 6 pick the stuff off the menu that they want. 7 And the miracle is that they buy more 8 because they don't hate the process. They're -- they're 9 so completely disarmed, you know, they -- they go from 10 this posture here, saying -- telling them, "No." "No." 11 "No." Instead, they get handed a stylus, and say -- 12 "You" -- "You run the system. You make your choices." 13 And that amounts to, typically, 200 bucks 14 per transaction more gross profit to the dealer. So if 15 you have a -- a typical finance manager who will handle 16 70 transactions a month at 200 bucks apiece, that's 17 \$14,000 a month in additional gross profit -- per F&I 18 managers. If you've got five, then it's five times that 19 a month. 20 Q. (By Ms. Gulley) Is that more than the -- what 21 they're paying to license the DMS, the whole DMS? 22 A. Correct. 23 MR. NEMELKA: Objection. 24 A. We have customers that will stand up and swear, 25 and take calls, you know, and go visit -- that that's</p>	<p style="text-align: right;">Page 346</p> <p>1 Q. (By Ms. Gulley) Are we talking '70s, the 2 1970s? 3 MS. WEDGWORTH: Objection. 4 A. 1970s. 1970s. I have very, very bad 5 experience with them, and I'm, you know, still bent out 6 of shape about that. 7 And then about -- about 20 years ago, there 8 was a small company in Houston that, you know, copied 9 our system and built a new one based upon -- they -- 10 they stole our -- our screen layouts, our report 11 layouts, our -- our field -- our field layouts, our data 12 fields inside the field -- inside the -- inside the 13 records, and sold it to, you know, ADP for \$67 million. 14 And for some reason -- or a reason we don't know, ADP 15 decided to hold back \$27 million out of that 16 transaction. For some reason. 17 We sued ADP as a result, and I wasted a 18 year in depositions, arbitration and whatnot. You know, 19 finally lost. I'm still amazed that I did. But in 20 my -- I was dispirited about that. But the Lord decided 21 that he will help me. 22 And it went like this: After ADP won, they 23 put in -- they ran a whole floor in a big office 24 building out of Westmark in Houston. And they hired 25 about 150 programmers. This was going to be the next</p>
<p style="text-align: right;">Page 345</p> <p>1 what it does. It's that good. It's one of those 2 situations where -- I've been in this business a long 3 time, and my daily prayer is, "Oh, Lord, please give me 4 one more killer ap." And he gave it to me. I -- I 5 didn't -- I didn't invent it. I can't take credit for 6 that. But I saw it, and I said, "God, we've got to have 7 this." 8 Q. (By Ms. Gulley) All right. Let's switch gears 9 a little bit. Mr. Nemelka just shortly -- this 10 afternoon, put in front of you an email between you and 11 Mr. Anenen. Do you remember that? 12 A. Uh-huh. (Witness answers affirmatively.) 13 Q. How do you feel about CDK/ADP? 14 MS. WEDGWORTH: Objection. 15 MR. NEMELKA: Objection. 16 A. Well, that is -- that is a -- a complex 17 question. There's individual people inside CDK that are 18 decent people. Ron Workman was a decent person. I 19 mean, Steve Anenen is a decent person. Corporately, 20 they're -- I don't have good feelings about them at all, 21 and it goes back to many, many, many years ago. I've 22 been competing against them directly in the marketplace 23 for well in excess of 40 years. And, you know, they did 24 some things, you know, back early on that I'm still mad 25 about.</p>	<p style="text-align: right;">Page 347</p> <p>1 generation system. They told their sales force all 2 about the next generation system. And they worked at it 3 and they worked at it and they worked at it, and it all 4 looked great, and it would run four terminals well. 5 Four. You put 20 on it, it wouldn't work at all. And 6 they could not scale it up. 7 But they worked -- they didn't stop 8 working. They said, "Well, we can fix this. We can do 9 this." And they worked and they worked and they worked 10 and they worked, and finally, five years after their -- 11 their, quote, "victory" over Bob Brockman, they scrapped 12 the whole thing. 13 And as close as I can estimate that cost 14 them, including the original purchase price, plus the 15 legal fees for fighting me off, it cost them \$250 16 million and cost them five years in market, because all 17 of a sudden, they had to start over on what their next 18 generation piece of software was going to be. 19 So obviously, I have a lot of very, very 20 strong feelings about it -- about ADP or CDK. I don't 21 like them, and I don't like them a lot. 22 Q. (By Ms. Gulley) Do you want help them make 23 more profits? 24 MS. WEDGWORTH: Objection. 25 MR. NEMELKA: Objection.</p>

46 (Pages 344 - 347)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 348</p> <p>1 A. Only if -- if I make more profit, you know, 2 right alongside them. 3 Q. (By Ms. Gulley) Well, in this case, the 4 plaintiffs have alleged that you and CDK have gotten 5 together in some sort of conspiracy. I want to kind of 6 talk through some of that. Are you the leader of 7 Reynolds and Reynolds? 8 MS. WEDGWORTH: Objection. 9 A. Unequivocally. 10 Q. (By Ms. Gulley) When did you learn that CDK 11 was going to require vendors to access its system 12 through the 3PA program rather than any other method? 13 MS. WEDGWORTH: Objection. 14 A. I don't know the exact day, but it was 15 substantially after the stand-down agreement. 16 Q. (By Ms. Gulley) So it was after February 2015? 17 A. Yes. 18 MS. WEDGWORTH: Objection. 19 Q. (By Ms. Gulley) Did you personally agree with 20 anyone at CDK that you would get together to block 21 Authenticom? 22 MS. WEDGWORTH: Objection. 23 MR. NEMELKA: Objection. 24 A. Did not. 25 Q. (By Ms. Gulley) That you would get together to</p>	<p style="text-align: right;">Page 350</p> <p>1 A. I -- I didn't come to understand their data 2 access policy, really, until we bought ReverseRisk, 3 which is -- which was a customer. They -- they acquired 4 data downloads for accounting data from CDK, and it 5 wasn't until that time that I understood, even, how it 6 all worked. 7 Q. (By Ms. Gulley) These -- in terms of an 8 agreement between Reynolds and CDK related to companies 9 like Authenticom, if there was any such agreement about 10 how the two firms were going to jointly treat somebody 11 like Authenticom, would you know about it? 12 MS. WEDGWORTH: Objection. 13 A. Absolutely. As you probably can tell, I'm -- 14 I'm into the details, big time. And there's no way in 15 the world anything like that would happen without my -- 16 without my knowledge. 17 Q. (By Ms. Gulley) What about any agreement 18 between Reynolds and CDK related to the two firms' data 19 access policies? If there were any agreement like that, 20 would you know about it? 21 A. Absolutely. 22 MS. WEDGWORTH: Objection. 23 A. Absolutely. 24 Q. (By Ms. Gulley) Did you enter into an 25 agreement with CDK to create a market where Reynolds</p>
<p style="text-align: right;">Page 349</p> <p>1 block anyone in Authenticom's business line? 2 MS. WEDGWORTH: Objection. 3 A. No. Did not. 4 Q. (By Ms. Gulley) Did you personally agree with 5 anyone at CDK that you would destroy Authenticom 6 together? 7 MS. WEDGWORTH: Objection. 8 A. Absolutely not. 9 Q. (By Ms. Gulley) Have you ever discussed CDK's 10 policies about system access to their DMS with CDK? 11 MS. WEDGWORTH: Objection. 12 A. I have not. 13 Q. (By Ms. Gulley) Are you aware of any agreement 14 between anyone at Reynolds and CDK to eliminate 15 third-party data brokers, like Authenticom? 16 MS. WEDGWORTH: Objection. 17 A. I have not. 18 Q. (By Ms. Gulley) Did you and CDK ever meet to 19 even discuss the two firm's data access policies? 20 MS. WEDGWORTH: Objection. 21 A. We have not. 22 Q. (By Ms. Gulley) Are you aware of anyone having 23 those kind of conversations with CDK? 24 A. No. 25 MS. WEDGWORTH: Objection.</p>	<p style="text-align: right;">Page 351</p> <p>1 controlled all of the access to data stored on a 2 Reynolds DMS and CDK would control all of the access to 3 data stored on CDK's DMS? 4 MS. WEDGWORTH: Objection. 5 A. I did not. 6 Q. (By Ms. Gulley) Are you aware of any such 7 agreement? 8 MS. WEDGWORTH: Objection. 9 A. There is no -- there is no such agreement. 10 Q. (By Ms. Gulley) As soon as we find it, I'll 11 hand you Exhibit 644, from plaintiffs, earlier marked. 12 It's notes from a sales meeting in Aspen. Ms. Wedgworth 13 had asked you some questions about this. I'd like to 14 direct you to the page ending 632. I -- I don't 15 actually know if it was Ms. Wedgworth or Mr. Nemelka as 16 I sit here, but do you recall looking at this document 17 before? 18 A. Yes, I do. 19 Q. And again, these are -- I believe you 20 testified, in sum and substance, that these are your 21 notes in preparation of speaking to the top salespersons 22 at Reynolds in -- 23 MS. WEDGWORTH: Objection. 24 Q. (By Ms. Gulley) -- July 2014. 25 MS. WEDGWORTH: Objection.</p>

47 (Pages 348 - 351)

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<p style="text-align: right;">Page 352</p> <p>1 A. Yes, it would be the sales VPs.</p> <p>2 Q. (By Ms. Gulley) And how many sales VPs are</p> <p>3 there?</p> <p>4 MS. WEDGWORTH: Objection.</p> <p>5 A. All total, like, 12.</p> <p>6 Q. (By Ms. Gulley) All right. There's a line</p> <p>7 here -- Bullet 1, 2, 3, 4 -- Bullet 4, "This could put</p> <p>8 the security wars very much behind us." Do you see</p> <p>9 that?</p> <p>10 MS. WEDGWORTH: Objection.</p> <p>11 A. Is this 632?</p> <p>12 Q. (By Ms. Gulley) 632. Do you see where it says</p> <p>13 "Security" at the bottom?</p> <p>14 A. Okay.</p> <p>15 Q. And then there's a number of bullet points.</p> <p>16 I'm looking at the penultimate -- the second from the</p> <p>17 bottom. "This could put the security wars very much</p> <p>18 behind us." Do you see where I am?</p> <p>19 MS. WEDGWORTH: Objection.</p> <p>20 A. Yes.</p> <p>21 Q. (By Ms. Gulley) You were asked a lot about</p> <p>22 this section in earlier questioning. I'd like you to</p> <p>23 explain what you meant by "security wars" in this</p> <p>24 document.</p> <p>25 MS. WEDGWORTH: Objection.</p>	<p style="text-align: right;">Page 354</p> <p>1 those folks? Or something else?</p> <p>2 MS. WEDGWORTH: Objection.</p> <p>3 MR. NEMELKA: Objection.</p> <p>4 A. Probably, you know, Phil Bautista was -- was</p> <p>5 one of the early and one of the worst ones. And is</p> <p>6 still -- he's still regrowing his fangs.</p> <p>7 MS. GULLEY: I thank you for your time. I</p> <p>8 have nothing further. I believe the plaintiffs have a</p> <p>9 few minutes left.</p> <p>10 FURTHER EXAMINATION</p> <p>11 BY MR. NEMELKA:</p> <p>12 Q. Mr. Brockman, you testified about an -- an</p> <p>13 Xtime incident, and I have a question about that. The</p> <p>14 Xtime incident happened through the RCI interface, not</p> <p>15 because of any data integrator; correct?</p> <p>16 MS. GULLEY: Form.</p> <p>17 A. That's correct.</p> <p>18 Q. (By Mr. Nemelka) So your answers with respect</p> <p>19 to the Xtime incident have nothing to do with use of</p> <p>20 data innovators, right?</p> <p>21 MS. GULLEY: Form.</p> <p>22 A. That particular situation, yeah, did not</p> <p>23 involve data integrator. Come, however, any data</p> <p>24 integrator that employed any kind of write-back</p> <p>25 strategy, you know, could, potentially, the same thing</p>
<p style="text-align: right;">Page 353</p> <p>1 MR. NEMELKA: Objection.</p> <p>2 A. The subject of data security, when it comes to</p> <p>3 third-party data brokers, hackers, whatever you want to</p> <p>4 call them, has been, over the years, very much a</p> <p>5 cat-and-mouse kind of situation where we will detect a</p> <p>6 method by which somebody is getting into the system.</p> <p>7 And we will devise a countermeasure. And that will</p> <p>8 cause them to be unable to get into the system for a</p> <p>9 while.</p> <p>10 And then they -- they're -- they're not --</p> <p>11 you know, dummies. What they'll do is they'll figure</p> <p>12 out a different way. And that will work for a while,</p> <p>13 and we will, ultimately, observe that one, and we'll</p> <p>14 then go about employing countermeasures.</p> <p>15 Now, what that is -- is that -- that's --</p> <p>16 that's kind of a seesaw, you know, kind of back and</p> <p>17 forth like a war. And that's where the inference comes</p> <p>18 from. There's not a -- a -- we don't have a declaration</p> <p>19 of war per se. You know, we don't have a -- a, quote,</p> <p>20 "War room" with a capital W, that sort of thing. It --</p> <p>21 it's a figure of speech. And it applies to this, you</p> <p>22 know, back and forth nature of -- of data security</p> <p>23 and -- and its countermeasures.</p> <p>24 Q. (By Ms. Gulley) So -- so the security war was</p> <p>25 with DMI and Integra Link!! and Authenticom and SIS,</p>	<p style="text-align: right;">Page 355</p> <p>1 happen.</p> <p>2 Q. (By Mr. Nemelka) All right. And then</p> <p>3 Ms. Gulley put a document in front of you with your son</p> <p>4 about the DealerBuilt situation. The DealerBuilt</p> <p>5 situation also had nothing to do with dealers using data</p> <p>6 integrators, right?</p> <p>7 A. That's correct.</p> <p>8 Q. And so you wrote your son, "It finally</p> <p>9 happened." It had nothing -- but that had nothing to do</p> <p>10 with Data Integrators, right?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. It has to do with a data breach situation,</p> <p>13 which is a very distinct possibility with a data</p> <p>14 integrator.</p> <p>15 Q. (By Mr. Nemelka) But that incident with</p> <p>16 DealerBuilt had nothing to do with a data integrator,</p> <p>17 right?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. That particular incident did not have anything</p> <p>20 to do with a data integrator.</p> <p>21 Q. (By Mr. Nemelka) And still today, you haven't</p> <p>22 -- you're not aware of any data breach caused by</p> <p>23 Authenticom; correct?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. That's come to my attention.</p>

48 (Pages 352 - 355)

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<p style="text-align: right;">Page 356</p> <p>1 Q. (By Mr. Nemelka) You also testified about --</p> <p>2 you estimated that you wouldn't be surprised -- I wrote</p> <p>3 it down -- you wouldn't be surprised, you said, if the</p> <p>4 number was 500 million with respect to what Reynolds had</p> <p>5 spent with respect to security. Do you recall that</p> <p>6 testimony?</p> <p>7 MS. GULLEY: Billion. Not millions. He</p> <p>8 said billion, not million.</p> <p>9 MR. NEMELKA: 500 billion?</p> <p>10 MS. GULLEY: Oh, I'm sorry. Half a</p> <p>11 billion. I'm sorry, Counselor, it's late. I'm sorry,</p> <p>12 Mike.</p> <p>13 Q. (By Mr. Nemelka) You never actually calculated</p> <p>14 that number, did you?</p> <p>15 A. That's correct.</p> <p>16 Q. Nobody in Reynolds actually calculated that</p> <p>17 number, have they?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. That's correct.</p> <p>20 Q. (By Mr. Nemelka) There are no documents</p> <p>21 reflecting that calculation, are there?</p> <p>22 A. No.</p> <p>23 MS. GULLEY: Form.</p> <p>24 A. That's -- that's correct. I -- I'm making</p> <p>25 that, you know, guesstimate based on my knowledge and</p>	<p style="text-align: right;">Page 358</p> <p>1 Q. And the email which is dated May 8, 2016, you</p> <p>2 might recall that dealt with security enhancements that</p> <p>3 you wanted to implement and did implement that month.</p> <p>4 Do you recall that?</p> <p>5 MS. GULLEY: Form.</p> <p>6 A. Excuse me. Let me read this again. Yes, I --</p> <p>7 I've read this. I'm not sure that I understand it</p> <p>8 completely, but --</p> <p>9 Q. (By Ms. Wedgworth) So here, Mr. Schaefer asked</p> <p>10 you, toward the bottom of the email, talking about the</p> <p>11 new security enhancements to be implemented by Reynolds.</p> <p>12 It states, "I am trying to understand if there will be</p> <p>13 any exceptions? Which we have always had? For example,</p> <p>14 PAG, Hendrick, AMSI, Rahal, Wyler, etc."</p> <p>15 PAG and Hendrick, AMSI, Rahal and Wyler,</p> <p>16 those are all dealerships; correct?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. That's correct.</p> <p>19 Q. (By Ms. Wedgworth) And they are large</p> <p>20 dealerships, right?</p> <p>21 A. Yes. They are some of the largest.</p> <p>22 Q. And here, Mr. Schaefer says that those</p> <p>23 dealerships have always had exemptions; is that correct?</p> <p>24 MS. GULLEY: Form.</p> <p>25 A. For certain, you know, PAG, Hendrick, AMSI, I'm</p>
<p style="text-align: right;">Page 357</p> <p>1 experience in the business.</p> <p>2 Q. (By Mr. Nemelka) All right. That number is</p> <p>3 just a guesstimate, right?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. That's correct. But I think it's a pretty good</p> <p>6 one.</p> <p>7 Q. (By Mr. Nemelka) But it's still speculative,</p> <p>8 right?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. It's still speculative. But I would -- I would</p> <p>11 add that I'm, you know, probably uniquely qualified to</p> <p>12 be able to make that kind of guesstimate.</p> <p>13 MR. NEMELKA: All right.</p> <p>14 FURTHER EXAMINATION</p> <p>15 BY MS. WEDGWORTH:</p> <p>16 Q. Mr. Brockman, you stated earlier that the</p> <p>17 exemptions are only for specific security policy. Do</p> <p>18 you remember saying that when Ms. Gulley was asking you</p> <p>19 questions?</p> <p>20 A. Yes, I did.</p> <p>21 Q. If you could look at -- at Exhibit 665 of</p> <p>22 Plaintiffs. Here's 665. Mr. Brockman, this document,</p> <p>23 halfway down the page, the top email, if you'll note, is</p> <p>24 from Mr. Schaefer to you. Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 359</p> <p>1 personally aware of always had some exceptions. These</p> <p>2 are very large organizations, amongst the largest, and</p> <p>3 have very extensive IT staffs of their own. And they're</p> <p>4 what I would call quite sophisticated.</p> <p>5 Rahal and Wyler are a little smaller, but</p> <p>6 they still have -- not a large number of individuals,</p> <p>7 but they have a small number of individuals that are</p> <p>8 really, really savvy and know what they're doing.</p> <p>9 And in those particular cases, we've always</p> <p>10 allowed them, you know, some specific exceptions as far</p> <p>11 as, you know, downloading of data and that sort of</p> <p>12 thing.</p> <p>13 MS. GULLEY: That's -- that's the end of</p> <p>14 your time.</p> <p>15 A. And what -- what --</p> <p>16 Q. (By Ms. Wedgworth) Well --</p> <p>17 A. What Bob Schaefer is doing and that's he wants</p> <p>18 to know, you know, what kind of exception is -- is going</p> <p>19 to be. And he's asking, he's saying, "Please advise."</p> <p>20 Q. And he's saying, We have always had these</p> <p>21 exceptions for these dealerships, correct?</p> <p>22 A. The -- the --</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. -- for these, five dealerships, there's always</p> <p>25 been some kind of exception. Without going back in to</p>

49 (Pages 356 - 359)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 360</p> <p>1 the details, I can't tell you exactly what.</p> <p>2 Q. (By Ms. Wedgworth) And in addition to --</p> <p>3 MS. GULLEY: Peggy, that's the end of your</p> <p>4 time.</p> <p>5 MS. WEDGWORTH: I'm going to continue. You</p> <p>6 took a long time, you went over a lot of topics. You</p> <p>7 covered lots of -- a lot of topics.</p> <p>8 MS. GULLEY: You had to reserve your time</p> <p>9 for that. I'm sorry, Peggy. We're not going to</p> <p>10 continue. I told you that there was a limit to how long</p> <p>11 you could go. I just didn't cut him off when he was</p> <p>12 answering.</p> <p>13 MS. WEDGWORTH: Nor did I when I was</p> <p>14 questioning him. So I -- I'm going to continue my</p> <p>15 questioning.</p> <p>16 MR. NEMELKA: We have two more minutes.</p> <p>17 You're wrong about your calculation anyway, Andi.</p> <p>18 Q. (By Ms. Wedgworth) So -- so other than the</p> <p>19 five dealerships, there's also an "etc." at the end,</p> <p>20 Mr. Brockman. Do you see that?</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. Yes, ma'am, I do.</p> <p>23 Q. (By Ms. Wedgworth) And so that doesn't limit</p> <p>24 it to just the five dealerships who always have</p> <p>25 exemptions; is that correct?</p>	<p style="text-align: right;">Page 362</p> <p>1 half of it was brilliant?</p> <p>2 MS. GULLEY: Object to everything you just</p> <p>3 said.</p> <p>4 MS. WEDGWORTH: Here's a copy of it for</p> <p>5 you. 677.</p> <p>6 MR. NEMELKA: I found it.</p> <p>7 MS. WEDGWORTH: 657. There we go.</p> <p>8 Q. (By Ms. Wedgworth) Mr. Brockman, do you recall</p> <p>9 this document?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. So on the second page, those dealerships that</p> <p>12 are listed there, those are all privately held</p> <p>13 dealerships, correct --</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 Q. (By Ms. Wedgworth) -- in that box, in the</p> <p>16 chart?</p> <p>17 MS. GULLEY: Form.</p> <p>18 Q. (By Ms. Wedgworth) Second page.</p> <p>19 MS. GULLEY: Form.</p> <p>20 A. And what -- what is your question again,</p> <p>21 please, ma'am?</p> <p>22 Q. (By Ms. Wedgworth) The dealerships listed in</p> <p>23 the chart are all privately held dealerships; is that</p> <p>24 right?</p> <p>25 MS. GULLEY: Form.</p>
<p style="text-align: right;">Page 361</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. Ma'am, I -- I don't know, you know, if there's</p> <p>3 one more, or no more, or multiple that more. I can't</p> <p>4 tell from looking at this. And, again, we -- I think</p> <p>5 we've also talked about in the last two days about the</p> <p>6 total number of exceptions that are out there and how</p> <p>7 that number keeps coming down, down, down, down, down.</p> <p>8 And we're not all the way there yet.</p> <p>9 Q. (By Ms. Wedgworth) And the biggest drop of</p> <p>10 those exemptions coming down --</p> <p>11 MS. GULLEY: Objection.</p> <p>12 Q. (By Ms. Wedgworth) -- came after the</p> <p>13 stand-down agreement; correct?</p> <p>14 A. That's correct.</p> <p>15 Q. So if we now go to the first exhibit that you</p> <p>16 -- that I used with you today -- and let's see if I can</p> <p>17 find it.</p> <p>18 MR. NEMELKA: I can try to find it for you.</p> <p>19 MS. WEDGWORTH: Okay. It's the Ron Lamb</p> <p>20 exhibit. But I -- I'll try to do it without looking for</p> <p>21 the exhibit. It was the very first one today, which</p> <p>22 would be 657.</p> <p>23 Q. (By Ms. Wedgworth) But it's -- it's the letter</p> <p>24 that Ms. Gulley referred you to that you reviewed, where</p> <p>25 you said Mr. Lamb has written the letter and the first</p>	<p style="text-align: right;">Page 363</p> <p>1 A. Ma'am, I -- I don't know that. I -- I --</p> <p>2 there's some of them -- Herb Chambers, I'm -- I'm</p> <p>3 familiar with. And I'm pretty sure that one is</p> <p>4 privately owned. The status of the rest of them, I --</p> <p>5 I'm unaware.</p> <p>6 Q. (By Ms. Wedgworth) Well, do you have -- do you</p> <p>7 have any knowledge that any of those others are publicly</p> <p>8 held companies?</p> <p>9 A. Ma'am, I'm -- I'm sorry. I -- I just don't</p> <p>10 know.</p> <p>11 Q. Okay. With regard to this letter, I think you</p> <p>12 answered some questions from Ms. Gulley. You -- do you</p> <p>13 stand by this letter as Mr. Ron Lamb wrote it and you</p> <p>14 edited it?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. Yeah, I acknowledge the fact that he wrote it.</p> <p>17 This is a sales letter. And I looked at it from a</p> <p>18 topical standpoint. As I think I remember stating, I</p> <p>19 was very pleased that there were no misspellings, and</p> <p>20 punctuation also looked pretty good. But as far as</p> <p>21 the -- the exact, you know, last, you know, comment in</p> <p>22 the paragraph, I did not read it for that -- that level</p> <p>23 of content.</p> <p>24 Q. (By Ms. Wedgworth) Well, when you say it's a</p> <p>25 sales letter --</p>

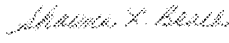
50 (Pages 360 - 363)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 364</p> <p>1 MS. GULLEY: Ms. Wedgworth, we're way 2 beyond your time. You can finish the -- you are way 3 beyond your time. For the record, we have asked 4 questions of all of our witnesses. You just did not 5 reserve enough. 6 MS. WEDGWORTH: Well, I'm going to -- I'm 7 going to keep this deposition open for many reasons. 8 The least of which is that we -- we let him answer every 9 single question. We let him take as long as we want. 10 You've asked a lot of questions. He's given very long 11 answers and we're entitled to respond to all of that. 12 In addition, you produced over 2,000 -- 200,000 13 documents -- 14 MR. NEMELKA: Pages of documents. 15 MS. WEDGWORTH: -- pages of documents over 16 the weekend. And for all those reasons, we are going 17 to -- 18 MS. GULLEY: You knew that those documents 19 were coming in advance, because we -- 20 MS. WEDGWORTH: Actually, we did not. And 21 we certainly didn't see them coming in on Friday night. 22 MS. GULLEY: You compelled them and the 23 court ruled that they would be produced after the motion 24 to compel. As you know, we're all still producing 25 documents in response to the Court's ruling on the</p>	<p style="text-align: right;">Page 366</p> <p>1 depending on his answers. 2 MS. GULLEY: What are you going to ask the 3 court for, an unlimited deposition? 4 MS. WEDGWORTH: Nope. Not unlimited at 5 all. I would think at least an hour could cover all of 6 this. 7 MS. GULLEY: Well, I believe that we need 8 to go off the record. You're asking me before we go off 9 the record for an extension of one hour. Otherwise, 10 you're filing a motion to just to be clear on the 11 record, for the future. 12 MS. WEDGWORTH: Correct. Correct. 13 MS. GULLEY: And you'll be asking the Court 14 for one hour, additional? 15 MS. WEDGWORTH: Certainly one hour, yes. 16 MS. GULLEY: Okay. Off the record. 17 THE VIDEOGRAPHER: Off the record at 4:20 18 p.m. 19 (Short recess 4:20 to 4:42 p.m.) 20 THE VIDEOGRAPHER: Back on the record at 21 4:42 p.m. 22 MS. GULLEY: While we were off the record, 23 there was discussion back and forth among counsel about 24 next steps. Counsel for plaintiffs approached me and 25 said, you know, if we could go ten more minutes, they</p>
<p style="text-align: right;">Page 365</p> <p>1 motion to compel. You put these depositions on the 2 docket in -- in any event. That's our entire point, is 3 why plaintiffs are so far ahead of us on the number of 4 depositions, because plaintiffs do not produce 5 documents. And we understand that we can only take 6 depositions once. 7 We are not holding the deposition open 8 longer. You have used the entire seven hours. We split 9 this over two days, not to give you a one-and-a-half day 10 deposition, but rather because of health -- of attorney 11 eyes only -- as we said before -- health considerations 12 that mean Mr. Brockman really cannot be here any longer. 13 And therefore, this deposition is not going 14 to stay here open. I was actually going to tell you we 15 were out of time; if you would like to finish this 16 series of questions for the next two or three minutes, 17 that's fine, until you jumped down my throat and said 18 you're not going to close it at all. That's nonsense. 19 That's -- we have an agreed protocol order. 20 MS. WEDGWORTH: Well, I am not agreeing to 21 it, and I will be making a motion to the court to finish 22 this deposition. 23 MS. GULLEY: How much longer do you need, 24 Ms. Wedgworth? 25 MS. WEDGWORTH: I'm not sure. It's</p>	<p style="text-align: right;">Page 367</p> <p>1 would, you know, withdraw their objection to keep the 2 deposition open. We were agreeable to that extra ten 3 minutes, and we're willing to put Mr. Brockman on the 4 stand for an extra ten minutes. 5 However, during that time period, he 6 suffered an incident with his health, verified by a 7 test. And unfortunately, he's unable to come back into 8 the room to proceed for those ten minutes. My 9 understanding is that plaintiffs are okay closing the 10 deposition for today, subject to your statements. 11 MS. WEDGWORTH: We just reserve our rights 12 to pursue whatever we may need in the future. And we 13 certainly appreciate that his health is paramount and 14 don't feel it appropriate. If the -- if he can't 15 testify today, it wouldn't be appropriate to do it 16 today, due to his health. 17 MR. NEMELKA: And I have no further 18 questions. 19 MS. GULLEY: No, just in response to 20 Ms. Wedgworth, obviously, Mr. Brockman is the chairman 21 of the company, and he made himself available for the 22 entire seven hours. We would object to keeping the 23 deposition open in any way. I understand we've agreed 24 to disagree on that point. 25 MS. WEDGWORTH: Off the record.</p>

51 (Pages 364 - 367)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 368</p> <p>1 THE VIDEOGRAPHER: This will conclude 2 today's deposition for Mr. Robert Brockman. We are off 3 the record at 4:43 p.m. 4 (Deposition concluded at 4:43 p.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 370</p> <p>1 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS 2 EASTERN DIVISION 3) IN RE: DEALER MANAGEMENT) MDL NO. 2817 4 SYSTEMS ANTITRUST) LITIGATION,) CASE NO. 18 C 864 5) 6 7 8 REPORTER'S CERTIFICATION 9 ORAL AND VIDEOTAPED DEPOSITION OF ROBERT BROCKMAN 10 January 17, 2019 11 Volume 2 12 13 I, SHAUNA L. BEACH, Certified Shorthand 14 Reporter in and for the State of Texas, do hereby 15 certify to the following: 16 That the witness, ROBERT BROCKMAN, was duly 17 sworn by the officer and that the transcript of the oral 18 deposition is a true record of the testimony given by 19 the witness; 20 I further certify that pursuant to FRCP Rule 21 30(e)(1) that the signature of the deponent: 22 _X_ was requested by the deponent or a party 23 before the completion of the deposition and is to be 24 returned within 30 days from the date of receipt of the 25 transcript. If returned, the attached Changes and</p>
<p style="text-align: right;">Page 369</p> <p>1 CHANGES AND SIGNATURE 2 WITNESS NAME: ROBERT BROCKMAN DATE: January 17, 2019 3 PAGE LINE CHANGE REASON 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 13 I, ROBERT BROCKMAN, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above. 14 _____ ROBERT BROCKMAN 15 16 THE STATE OF) COUNTY OF) 17 BEFORE ME, _____, on this day personally appeared ROBERT BROCKMAN, known to me (or 18 proved to me under oath or through _____) (description of identity 19 card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged 20 to me that they executed the same for the purposes and consideration therein expressed. 21 Given under my hand and seal of office this _____ day of _____, _____. 22 23 NOTARY PUBLIC IN AND FOR THE STATE OF _____ 24 COMMISSION EXPIRES: _____ 25</p>	<p style="text-align: right;">Page 371</p> <p>1 Signature Page contains any changes and the reasons 2 therefor; 3 _____ was not requested by the deponent or a 4 party before the completion of the deposition. 5 I further certify that I am neither counsel 6 for, related to, nor employed by any of the parties or 7 attorneys to the action in which this proceeding was 8 taken. Further, I am not a relative or employee of any 9 attorney of record in this cause, nor am I financially 10 or otherwise interested in the outcome of the action. 11 Subscribed and sworn to on this 12 30th Day of January, 2019. 13 14 15 16  17 SHAUNA L. BEACH, RDR, CRR, CSR #8408 Expiration Date: 12/31/2019 18 19 20 21 22 23 24 25</p>

52 (Pages 368 - 371)

HIGHLY CONFIDENTIAL

[& - 24]

Page 1

&	12/31/2019 371:17	2	235:9,17 238:25
& 167:19 168:4,10	12:17 265:11,12	2 167:8,13 170:2	239:2 240:4
175:12 176:1,5	12th 257:1 259:13	171:10 173:3	241:22 245:3,20
260:10	259:21	174:2 237:9 245:9	248:6 251:9
0	13 170:13 174:13	265:11 271:7,8	252:19 254:9,25
	323:16	272:8 319:4 352:7	255:11,21 257:1
00963942 171:18	14 170:14 174:14	370:11	259:13,21 268:10
023 332:21	284:18 285:2,17	2,000 364:12	268:14 269:9
025 184:5	14,000 197:13	20 170:20 173:14	270:9 271:11
092 241:15	344:17	174:20 183:2	358:1
1	142 192:19	215:18 282:11	2017 172:7 173:14
1 170:1 172:21	15 170:15 174:15	346:7 347:5	173:21 174:3,9,20
174:1,20 237:6	322:25	200 182:22 197:9	218:17 219:12
245:6 255:21	150 224:2,7,23	197:12 344:13,16	263:4 271:19
296:13 323:16	281:25 282:1,18	200,000 364:12	277:4,8,19 286:9
352:7 370:21	346:25	2000 284:17	288:8,11 296:13
1,000 194:18	16 170:16 174:16	20006-1101	296:20
1,034k 286:8	277:8 284:16	168:22	2018 174:6 284:14
1/2 323:16,16	16.3m. 286:10	20006-6801 169:5	284:18
10 170:10 174:10	1615 168:11	20036 168:12	2019 167:10,16
238:25 240:15	16953 371:15	2006 304:13 305:2	175:3 245:10
337:16	17 167:10 170:17	2009 192:13 209:6	369:2 370:10
10,000 194:14	171:7 174:17	201 171:13 173:10	371:12
10,690k 286:8	228:16,17 322:8	2013 171:7 289:16	2020 330:4
100 169:4 179:8	369:2 370:10	322:8	2099 169:4
10119 168:18	176 170:2,5	2014 184:15	20th 263:4
105 335:22	17th 167:15 175:3	192:17 351:24	21 170:21 172:10
10:17 210:5,6	18 167:4 170:18	2015 171:10,14,17	174:21
10th 196:4	174:18 277:19	174:13,16 184:9	213 171:16
11 170:11 174:11	370:4	201:21,22 213:18	22 170:22 174:22
110 192:17	18.3m 286:8	213:20 214:2	201:7
1100 167:19 168:4	184 171:9	224:1 225:8 226:4	221 171:20
175:13	18th 277:20	226:12 289:23	226 281:14
11:02 237:6,7	19 170:19 174:3,19	293:16 329:23	229 171:23
11:09 237:7,9	241:22 277:8	330:3 334:2,2	23 170:23 174:23
11:15 240:17,19	1970s 346:2,4,4	348:16	234 172:2
11:31 240:19,21	1999 168:22	2016 171:3,20,24	237 172:6
12 170:12 173:7,10	19th 168:17 277:4	172:3,10,14,17,21	23rd 201:21
174:12 223:14	1:36 265:12,14	173:3,7,17 224:2,8	24 170:24 171:17
314:9 352:5	1st 184:9 185:5	224:23 225:7	174:24 184:15
	253:3 296:20	227:6 230:11	

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FTC-0001305

HIGHLY CONFIDENTIAL

[240 - 700,000]

Page 2

240 172:9	339:15 370:21,24	5	357:22
244 172:13	300 170:6 194:21	5 170:5 171:24	666 172:16 247:23
247 172:16	195:13,19,23	174:5 228:2 249:1	248:1,3 249:10
24th 213:18,20	282:1,2,18	272:8	250:13
25 170:25 174:25	30th 201:21	5,000 281:9	667 172:20 252:2,5
314:8 337:11	371:12	5,910,000 225:7,22	252:11,16
250 347:15	31 172:17 248:6	50 204:11	668 173:2 254:17
252 172:20	318 171:2	500 356:4,9	254:18,21
256 173:2,6	31st 252:19 253:1	504 218:5,9	669 173:6 256:19
259 173:9	253:2	53 196:5	256:22,23 257:1
26 242:2	32 192:20	5300 167:20 168:5	259:16
262 173:13	321 171:6	175:14	67 346:13
268 173:16	345 322:11,23	5am 253:12	670 170:18 173:9
27 346:15	35 276:18	5th 230:11 289:23	259:6,7,10
271 173:20	354 170:6 223:20	6	671 173:13 262:20
274 171:2 318:2,5	224:15,17	6 170:6 174:6	262:23,25
318:8,11,17	357 170:7	228:3 253:14	672 173:16 268:21
275 171:6 321:20	36 199:17	632 351:14 352:11	268:22,25 269:2
321:22	369 170:8	352:12	271:11
276 174:2	370 170:9	644 351:11	673 173:20 271:13
27th 260:6	3:16 325:24,25	651 228:15	271:16,18
28 172:7	3:31 325:25 326:2	657 171:9 184:1,2	674 174:2 276:14
2817 167:3 370:3	3pa 292:18 293:6	332:8 361:22	276:17,20
284 174:6	295:4,15 348:12	362:7	675 174:6 284:11
288 174:9	3rd 253:20	658 171:13 201:9	284:12
289 170:5 174:12	4	201:10	676 174:9 288:7,13
29 186:25 187:7	4 170:4 173:17	659 171:16 213:9	677 174:12 289:14
292 174:15	174:4 271:11	213:12	289:18 362:5
296 174:19	326:2 352:7,7	660 171:20 221:18	678 174:15 292:14
2:21 287:8,9	4.1 271:8	221:19	293:15
2nd 254:25	40 345:23	661 171:23 229:25	679 170:18 174:19
3	400 168:11 308:18	230:3	296:12,16 300:16
3 170:3 174:3	340:14	662 172:2 234:20	300:16
265:14 325:24	400,000 318:25	234:21	681 224:2,8,23
352:7	44 320:12	663 172:6 237:12	6am 253:13
3,104,000 225:8,23	4:42 366:19,21	237:16 238:24	7
30 171:14 174:16	4:43 167:16 368:3	664 172:9 240:23	7 170:7 172:3
218:17 222:12,13	368:4	241:2,10,21	174:13 247:6,12
228:18 229:6		665 172:13 244:21	70 197:11 344:16
265:5 282:11		244:22,25 357:21	700,000 306:20
293:16 314:8			311:9

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001306

HIGHLY CONFIDENTIAL

[70s - advertisements]

Page 3

70s 346:1	absent 180:17	293:13 295:19,21	actions 236:12
712 223:15	absolute 313:13	295:23 296:4,5,8	262:3
77 225:11	335:4 337:9	302:5 350:4	actively 186:8
77002 167:20	absolutely 242:14	accounts 220:9	activity 283:24
168:5 175:14	244:18 247:22	249:10,19,23	actual 271:4
8	302:12 304:17	250:4,7,12	add 216:20 240:11
8 170:8 172:14	336:21 337:8,10	accumulate	270:15 299:16
174:8 245:3 247:7	349:8 350:13,21	312:18	306:18 309:1
247:12 358:1	350:23	accumulating	326:11,17 341:3
80 205:9 215:18	abuse 313:14,15	325:10	357:11
800,000 311:9	abusing 306:16	accuracy 220:25	added 270:3
8408 371:17	ac 294:9	accurate 184:12	306:20
864 167:4 370:4	accept 181:18	202:8 218:20	adding 306:13,19
	187:19	230:19 252:23	308:14
9	acceptable 322:17	332:14	addition 185:7,11
9 170:9 171:3	accepted 231:19	accurately 230:24	185:17 360:2
173:21 174:9	access 219:12	achieve 199:15	364:12
235:17 239:9	220:7 231:9 264:7	294:21	additional 197:12
245:10 271:19	267:1,15 268:3,5,6	achieved 261:3	247:11 305:11
323:12 324:14	268:7 270:5	340:20	340:13 344:17
90 205:9 225:25	293:13 296:14	acknowledge	366:14
95 186:25 187:7,16	306:18 308:15	363:16	address 271:24
187:23	309:1 310:5	acknowledged	279:5,6 337:14
9:07 167:16 175:3	313:25 315:3,14	369:19	addressed 184:15
9:57 210:3,5	327:17,19 328:11	acquire 182:5,7,14	addresses 279:2
9th 235:9	328:11 348:11	182:17,21 299:5	310:18
a	349:10,19 350:2	acquired 216:11	adjust 195:6
a.m. 167:16 175:3	350:19 351:1,2	263:10 304:13	adjusting 170:19
210:3,5,6 237:6,7	accessing 274:23	350:3	admitted 315:1
237:9 240:17,19	306:8 325:7	acquiring 298:25	adp 209:5 236:23
240:21 247:7,13	accomplish 221:12	acquisition 293:20	292:24 345:13
249:1 253:14	accomplished	294:9,16 298:23	346:13,14,17,22
aax 294:22	239:22 335:20	298:24 299:7	347:20
abbreviated 278:2	accomplishing	303:11 305:2	adp's 236:11
abilities 253:18	223:2	acronym 274:15	advance 251:3,6
ability 266:20	account 196:10	act 283:6 308:2	364:19
able 207:8 239:24	accounting 220:10	312:14 313:14,15	advantageous
251:12 293:10	227:10,18,24	action 253:5	182:21
305:19 306:24	228:1,3 230:23,24	264:10 285:24	advertisements
309:8 331:14	232:3,16 273:7,12	371:7,10	197:19
357:12	274:10 293:3,10		

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001307

HIGHLY CONFIDENTIAL

[advertising - approved]

Page 4

advertising 302:25 305:11	329:22 330:3,3,4,7 331:8 348:15	analyze 229:19	anytime 264:14
advice 316:17	349:13 350:8,9,17	andi 176:1 360:17	anyway 360:17
advise 359:19	350:19,25 351:7,9	androids 178:22	ap 345:4
adviser 336:1	361:13	anenen 212:14	apiece 319:5
advisor 335:23	agreements 226:4	289:16,22 291:22	344:16
advisors 336:22	226:7,11,11	292:4 345:11,19	apparent 264:13
affairs 254:10	agulley 168:6	announce 251:6	appearance
affiliation 175:16	ahead 206:4,16	announced 334:8	175:15
affirmatively	243:16 303:22	announcing	appearances
300:23 345:12	365:3	242:10	170:2
affix 369:13	aid 225:17	annual 211:22	appeared 208:21
afternoon 265:18	ain't 292:11	228:17,23 229:5	369:17
289:10 303:8	air 275:2	270:23	appearing 168:15
306:1 345:10	alleged 348:4	annualized 286:9	appears 192:17
agan 172:10 253:4	allow 219:12,16	answer 176:22	201:23 218:18
age 225:13	266:4,9 269:4	177:4 194:11	225:6 244:3
agenda 212:7	278:11 313:24	205:24 206:3,4	257:13 260:24
agent 328:1	327:18 328:2	210:15,20 219:14	application 205:17
agents 314:2	allowed 308:25	227:14 229:10	257:21 266:11
ago 222:16 239:8	310:4 327:23	235:22 236:4	282:25 283:4,9
254:10 314:9	359:10	243:13,16 246:19	297:8,10,14,17,21
318:15 322:25	alongside 348:2	266:16,16,25	297:23 298:2,4
345:21 346:7	amazed 346:19	268:19 270:10	310:4
agree 177:5 179:5	amazing 196:20	271:2 278:9	applications
181:11 187:2	339:2	305:19 338:16,24	292:18,23 293:5
188:9,20 190:21	ambushed 292:10	343:20 364:8	293:23
191:21 224:15	america 339:14	answered 363:12	applies 202:18
250:6 258:25	ammunition	answering 206:13	312:15 353:21
264:6 288:22	291:24	305:8 360:12	appreciably
299:13 348:19	amortization	answers 300:23	199:18
349:4	272:21	338:12 345:12	appreciate 367:13
agreeable 367:2	amount 220:14	354:18 364:11	approached
agreed 229:4	235:22 243:21	366:1	366:24
300:25 301:1	327:15 335:16	anticipated 248:20	appropriate
365:19 367:23	amounts 323:23	antitrust 167:4	367:14,15
agreeing 365:20	344:13	175:6 316:23	approval 193:20
agreement 218:1	amsi 358:14,15,25	370:4	271:21
226:8,16,19 227:4	analysis 174:6,9	anybody 301:13	approve 203:20
229:3 233:9,17	222:4	anymore 233:22	242:24 263:12
236:2,22 290:1		343:14	approved 191:24
			263:6 272:1

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001308

HIGHLY CONFIDENTIAL

[approximately - back]

Page 5

approximately 211:15 228:18 229:6 apps 294:22 295:8 april 171:14 172:10 201:21,21 241:22 242:2 arbitration 346:18 area 194:25 195:1 208:2 244:14 254:11 263:12 264:3 300:10 332:10 arises 203:6 arms 337:9 343:19 arranging 312:19 arrow 324:16,17 articles 294:15 asb 242:1,10 aside 198:25 204:4 215:1 221:17 240:3 292:13 296:10 asked 228:21 229:18 237:25 243:11 301:23 311:10,15 316:6 330:10 338:10 351:13 352:21 358:9 364:3,10 asking 198:17 205:25 236:4 257:24 270:8 300:15 302:8 326:9 357:18 359:19 366:8,13 aspen 351:12 assed 323:19 assets 294:10 assistance 219:2	associated 260:8 302:10,15 assume 176:22 assuming 188:13 216:15 331:23 assure 208:19 239:25 asterisks 286:5,7 astronomical 179:7 attached 167:22 242:10 245:13 322:9 370:25 attachment 184:14 245:3,18 255:3 323:5 attempt 343:8 attempted 278:21 335:21 attention 170:16 180:23 183:17 242:12 302:20 313:19 355:25 attitude 233:9 attorney 365:10 371:9 attorneys 167:9 171:4,8,11,15,21 172:4,8,11,15,18 172:22 173:4,8,11 173:15,18,22 174:4,7,10,14,17 174:21 316:18 371:7 attorneys'eyes 171:25 attractive 209:2 audits 234:7 aug 286:9 august 173:7,10 235:9,17 257:1	259:13,21 aundrea 168:3 aut 192:16 331:14 authenticom 168:7 264:22 296:21 297:4,7 298:9,20 299:12 299:21 314:14 325:3 328:21 348:21 349:5,15 350:9,11 353:25 355:23 authenticom's 349:1 authority 315:20 authorization 205:13 authorized 255:9 313:17 auto 190:12 192:12 autoalert 257:3,17 258:3 259:22 260:22 262:4 267:8 281:22 283:20 autoalert's 258:11 autoloop 168:8 automate 300:22 automated 327:17 327:19,25 328:11 automatic 274:18 309:17 automatically 296:7 322:10 324:1 automotive 168:7 184:20 186:17,19 189:5 191:25 192:16,23 193:2 193:12,20 194:3	197:18 198:13 293:5,24 294:9 319:16 331:3,9 339:22 automotive's 293:20 autosoft 300:22 available 188:17 188:22 189:1 323:18 367:21 avenue 169:4 average 195:12,14 197:9 199:2,4,7 200:16 avoid 280:8 336:7 avps 253:5 awakening 309:21 award 238:1,10,13 238:16,23 239:2 240:4,7 awards 237:19,22 237:24,25 238:15 238:16 aware 184:25 186:10 196:17 198:1,14 216:10 251:18 255:24 262:6 264:24 273:13 287:25 288:1,5 301:17 349:13,22 351:6 355:22 359:1
b			
b 214:11 332:5 back 205:5 210:7 210:10 214:6,6 234:23 235:8 237:9 240:20 244:16 246:8,20 254:9 259:19 265:13,15 270:4			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001309

HIGHLY CONFIDENTIAL

[back - bottom]

Page 6

270:13 275:3	basically 207:7	236:11 241:23	bills 216:13
277:10 287:10	261:19 263:19	246:10 249:21	bit 193:1 204:5
296:8 307:14,22	334:23 344:5	262:11 283:10	241:6 266:17
308:15 309:7	basis 201:6 211:6	286:20 290:4	283:13,18 337:3
310:3,23 318:23	211:7,9 222:1	293:5 318:19	339:20 343:6
324:4 325:22	223:6,9 226:24	351:19 354:8	345:9
326:2,11,18,24	251:25 274:18	366:7	black 278:19
327:3,4 333:25	285:21 288:19	believed 326:15	blacklist 279:5,5
338:23 339:1	296:4 326:15	bell 201:25	blacklisted 278:18
341:16 345:21,24	batch 306:5 323:1	ben 169:9 175:9	279:7 280:8
346:15 353:16,22	323:8 324:11	beneath 285:13	blacklisting 280:1
354:24 359:25	batches 256:6	286:5	blank 230:14
366:20,23 367:7	bates 184:5 201:12	benefit 238:12	blanket 326:20
backing 274:24	218:9 223:15	benefits 294:9	blast 278:23 279:3
backup 274:17	230:4 241:14	bent 346:5	280:10
275:3	249:22 250:1,5	best 195:5 333:24	blasts 278:11
backups 274:20	276:18	338:17 341:6,14	bliley 312:11
318:22	bauer 241:25	bet 319:13	block 348:20
bad 248:15 279:2	242:9	better 199:20	349:1
294:4 307:7,24	bautista 324:22	203:3,10 238:21	blue 204:25
319:10,19,23	354:4	258:4,7 266:23	bo 306:19
324:7 346:4	beach 167:17	268:18 295:12	board 210:21,24
balances 221:8	175:11 370:13	317:22 337:7	211:2,8 214:1,22
banditing 236:23	371:17	341:6,12	bob 171:3,6,10,13
bandits 245:25	bearing 222:14	beyond 324:8	171:17,23 172:6
248:12 314:14,21	began 216:9	364:2,3	172:13,17 173:3,6
bandwidth 273:20	334:22,22	big 194:1 283:6	173:10,13,17
bank 339:14	beginning 237:8	299:24 315:5	174:12,16,19
banked 339:15	265:14 326:1	329:4 339:24	230:14,18 232:14
banker 339:14	begun 305:17	344:2 346:23	242:19 253:4,18
banks 319:18,19	behalf 175:10,11	350:14	261:18 273:4
barras 174:3	175:18 176:10	biggest 187:15	296:12,12 338:22
279:17 280:3	belief 193:2	361:9	340:4 347:11
barriers 315:3	207:16 217:13	bihner 214:10,10	359:17
base 311:3	240:9 265:3	214:11,17	bogus 306:19
based 190:2	believe 180:15	bill 197:20	307:12
199:16 202:15	185:2 191:3	billing 228:1	bold 202:15
244:2 250:5 254:2	201:18 202:3,7	340:13	235:13 260:5
262:3 346:9	206:12 213:16	billion 311:20,25	bonuses 321:10
356:25	214:1 215:2	356:7,8,9,11	bottom 245:6
	221:21 231:12		279:17 285:11

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001310

HIGHLY CONFIDENTIAL

[bottom - card]

Page 7

286:4,5 289:21 352:13,17 358:10 bought 196:21 197:22 340:14,14 350:2 bowl 212:1 box 322:16 362:15 bragging 260:8 brand 194:24 breach 315:7 317:22 319:15 355:12,22 breaches 262:8 break 177:2,3,5 210:1,2 240:14,15 265:8 287:3 317:23 325:20,21 breaking 255:6 256:12 brice 168:3 176:4 brief 241:9 300:11 318:1,9 bright 290:11 brilliant 185:7,11 185:17 189:17,25 193:20 362:1 bring 336:15,17 broad 267:12,24 brockman 167:8 167:12 170:4 171:3,3,6,10,13,17 171:23 172:6,13 172:17 173:3,6,10 173:10,13,13,17 173:17,20 174:3,7 174:9,12,12,16,16 174:19,19 175:5 176:2,8,13,17 183:25 197:25 201:8 210:10 218:9,11 221:17	221:17 230:5 234:24 235:3 237:15 241:1,15 241:18 244:20 248:2 252:7,10 256:22 259:7,9,10 262:8,20,22,24 265:18 268:22 269:1 271:13,15 276:14,16,19 278:3 281:12,20 284:10,12 287:13 288:13 289:10,18 292:14 296:16,18 300:6 318:13 347:11 354:12 357:16,22 360:20 362:8 365:12 367:3,20 368:2 369:2,12,14,17 370:9,16 broker 264:2,7,21 312:24 317:24 324:23 brokers 312:2,9 313:6 314:5,14 349:15 353:3 brown 168:21 176:9 186:7,14,21 339:13,18,18 brown's 186:15 bruns 167:19 168:4 175:13 176:2,5 brushes 304:2 bucks 344:13,16 build 274:3 309:25 310:5,6 builder 202:24,24 203:4,7,8,8 323:14	building 207:6 244:7 311:2 346:24 built 205:16 242:15 279:23 335:12 337:4 341:20 346:9 bulk 247:8 bullet 255:18 256:1 352:7,7,15 bunch 279:8 302:20 317:15 319:14 326:12 331:19,20 business 180:10 180:25 186:4,18 196:4 209:2 231:6 231:14 235:9 244:11 246:4 264:17 275:4 291:17,18,19,20 293:11 295:19 299:2,19,22 307:12,17 308:1 309:13,18 319:16 333:22 339:24 342:23,24 343:7 345:2 349:1 357:1 bust 310:14 busy 291:8 button 206:23 341:17 buy 197:6 344:7 buyers 298:7 buying 199:13 244:7 279:1 342:25 buys 194:12 bwilkinson 168:6 bypass 249:17	c c 167:4 168:1 169:1 175:1 370:4 calculated 356:13 356:16 calculation 356:21 360:17 california 281:23 call 178:2,24 217:1 217:3 236:2 249:14 267:16 270:2 314:13 323:7 337:13 339:22 343:12 353:4 359:4 called 269:24 270:1 274:15 278:1 279:13 306:23 313:13,14 316:3 322:22 330:2 335:10 338:1,21 342:6,24 calls 213:6 291:2 319:15 344:25 canadian 282:10 capability 269:20 capital 353:20 caps 277:24,24,24 280:4,4 captcha 246:7,11 246:13,18 247:1 255:4,7,20 car 186:11,12 193:15 196:21 205:4,7,9,12 206:20 259:3 298:6 336:17 338:8 342:25 343:1,23 card 297:16 369:19
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001311

HIGHLY CONFIDENTIAL

[care - charlotte]

Page 8

care 321:4	208:13,24 209:9	central 318:23	chance 184:6
carefully 209:4	209:13,17 210:11	cents 270:17	197:6 198:11
carfax 253:20,23	211:12 212:3,11	ceo 213:3 231:3	201:14 235:3
329:6,8,16,17	212:16,16 214:10	certain 178:15	241:18 244:24
cars 193:5,10	214:17,24 215:7	204:20 274:14	248:2 252:16
336:15	215:11,16,18,25	292:18,23 293:23	256:23 276:19
case 167:4 191:3	216:4,17 217:7,10	312:13 358:25	305:20 321:24
195:6 203:15	218:1 219:2,5,11	certainly 179:17	change 178:18
208:21 219:10	219:12,16,16,23	179:24 180:1,8	182:13,17 187:19
232:2 257:14,16	219:25 220:1,6,19	189:13 190:22,24	191:1 192:19
270:11 279:6	226:17 228:19,24	193:25 194:8	194:20,22,23
283:10 286:9,20	229:1,5 233:8,17	206:15 208:8	195:1,3,12,18,22
314:7 319:22	235:23 236:1	233:4 253:10	249:7,8,17 270:16
348:3 370:4	264:7,12 287:16	255:14 260:24	306:18 309:1,3,5,6
cases 179:3 190:15	288:2 289:25	267:13 294:15	326:11,17 330:20
190:22,24 191:15	290:13,17,23	302:24 312:6	336:11 341:12
199:11 200:4	291:13 292:19,25	319:24 364:21	342:11 369:3
297:18 309:8	293:6 294:24	366:15 367:13	changed 270:3
310:13 313:9	295:4 296:22	certificate 170:9	327:4 339:8
327:5 359:9	297:11,18 300:22	certification	343:25
cash 263:21 298:6	329:23 330:24	260:11,13 261:3	changes 170:8
cat 353:5	332:1,13 334:8,11	370:8	182:4 183:4 193:2
catch 325:18	334:14 336:10	certified 259:24	249:24 255:3
categories 303:6	337:23 338:4,11	260:5,9 261:2,2,3	284:5,8 327:24
category 302:19	338:13 339:24	262:1,5 299:4	369:1 370:25
cause 167:15	345:13,17 347:20	370:13	371:1
269:20 353:8	348:4,10,20 349:5	certify 370:15,20	changing 337:25
371:9	349:10,14,18,23	371:5	341:18
caused 304:8	350:4,8,18,25	cfo 229:18	characterize
317:22 318:25	351:2	chain 171:2,6,9,13	178:14 216:21
355:22	cdk's 233:9 333:18	171:16,23 172:2,6	charge 186:14
causes 179:25	339:5 349:9 351:3	172:9,13,16,20	194:25 195:9,11
187:8,23	cdr 215:7	173:2,6,9,13,16,20	195:12 258:21,24
causing 170:17	cease 229:4	174:2,12,15,19	275:15,18,23
cautious 319:8	celebrate 239:24	293:19	276:2,8 308:9,9
cbr 287:14,20,21	cent 270:21 272:5	chair 183:23	315:17 327:3,4
cdk 168:20 171:18	center 249:14	chairman 367:20	charged 274:20
176:10 177:14	268:2 305:8	challenging 187:5	276:3
185:24 204:9,11	343:16	chambers 190:11	charges 275:13
207:11,13,13,17	centers 187:1,8	363:2	charlotte 339:14
207:22,25 208:7			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001312

HIGHLY CONFIDENTIAL

[chart - conception]

Page 9

chart 190:9 192:12,19,22 332:21 362:16,23	click 341:16 client 184:20,22 184:25	comment 232:23 232:24 234:9 276:21 363:21	competitor 208:14 208:17,19
cheapest 333:23 333:24	clients 264:3	commented 189:16	complained 306:23
check 220:17 341:13	close 263:1 347:13 365:18	commenting 232:19	complaint 249:15 complaints 251:15 306:1
checked 306:4	closed 283:25	comments 242:12	complete 188:22 189:5,10,12,13 200:6
checks 341:8	closely 203:25 231:6	commission 369:24	completed 260:9 330:8,9
cheer 183:14	closing 196:24 367:9	common 179:9	completely 191:6 197:1 215:15 231:7 273:23 307:19 316:8 321:7 323:19,20 343:25 344:9 358:8
cherry 169:7	clustered 302:1	communicate 239:20,24	completion 370:23 371:4
chevrolet 315:11	code 175:14	comp 273:15	complex 283:7 345:16
chief 180:25 229:12	cohen 169:3 176:6 176:6	companies 294:14 313:7 350:8 363:8	complexity 183:22 282:25 283:9,11
choice 199:19 303:10 341:6	colleague 175:25	company 169:8 176:3,8 216:15 222:5,9,16,24 230:17 231:3,5,9 231:21 232:1,7 239:13,15 240:13 263:10 281:9 299:1 303:11,17 304:14 305:4 312:6 315:12 322:22 339:24 346:8 367:21	complicated 183:19,22
choices 197:3 344:12	collision 187:1,8	compel 364:24 365:1	component 273:21
choose 181:8 197:6 341:15	colors 204:22	compelled 305:11 364:22	compute 325:11
chris 172:20 322:8	combining 293:23 294:10,22	compelling 342:8	computer 313:14 313:14,16,16 316:11 317:17,20 320:8 324:5,10
christopher 171:6	come 201:6 204:13 204:15 206:12 227:2 229:19 236:16,18 246:1 246:11 248:22 249:1 263:18,23 272:24 298:7 303:13 325:21 337:13 338:23 350:1 354:23 355:25 367:7	compensation 238:9 273:2,10	computers 323:21 339:19
cia 239:18	comes 204:19 259:3 285:23 299:23 344:1 353:2,17	compet 259:1	con 212:3
cid 171:18	comfortable 183:9	competing 345:22	concentrate 183:17
circled 326:6	coming 211:24,25 236:15 246:3 253:13 361:7,10 364:19,21	competition 330:20	concept 177:18
circumstances 315:23,24		competitive 193:3 259:1 331:23	conception 342:20
cite 257:12,25			
civil 167:21			
clarify 289:7			
class 168:8,14 175:19,21,24			
classified 299:9			
cleaning 308:3			
cleanup 306:25 307:1			
clear 214:5 313:15 342:13,13 366:10			
clearly 240:8 253:15 254:3 258:9,18			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001313

HIGHLY CONFIDENTIAL

[concern - correct]

Page 10

concern 247:20	considering 181:2	258:13,19,23	conversions
concerned 193:9	185:24 253:20	261:25 276:10	177:25 179:6
236:13 242:18	consistent 209:23	312:20 313:1,3	187:16 194:1
277:23 285:25	307:3	334:10 340:12	331:9 337:20
314:9 319:22,23	conspiracy 348:5	contracted 334:19	convert 177:8,9
328:19	consult 284:3	contractor 338:13	181:8 186:24
concerning 200:1	consumed 186:12	338:15	187:6,7 188:17
208:7 211:13	consumer 278:1	contracts 199:17	189:1 193:22
214:24 215:7	279:21,22 341:7	199:22 200:12,22	194:6 203:14
221:23 228:24	344:1	227:2 274:12	332:1,2,13
232:9,20 236:5	consumer's	313:5	converted 335:2
251:16,25	206:22	contractual	337:5
concerns 248:8,10	contact 207:13,13	216:14	converting 177:8
conclude 290:6	207:18	contrast 196:22	186:25 219:23
291:21 368:1	contacted 207:16	control 351:2	221:11 333:3
concluded 368:4	207:17	controlled 215:16	converts 178:2,5
confer 287:3	contacting 279:13	351:1	190:8
conference 211:22	contain 243:22	controls 248:18	convince 193:21
confidential 167:9	contains 371:1	convenience	317:16
171:4,8,11,15,18	content 363:23	258:10	copied 346:8
171:19,21,25	contexts 330:11	convention 212:25	copies 216:15
172:4,8,11,15,18	continue 203:10	conversation	copy 221:8 362:4
172:22 173:4,8,11	203:18 206:16	207:25 208:3,4	corner 341:10
173:15,18,22	295:11 360:5,10	220:20,21,22	corners 240:12
174:4,7,10,14,17	360:14	338:10	corporately
174:21	continued 175:4	conversations	345:19
conscious 303:9	307:10,11	214:12 320:7	corporations
consider 177:17	continues 254:13	349:23	227:20
181:2 249:15	continuing 176:19	conversion 177:15	correct 178:6
333:17 340:23	210:8 237:11	177:18,23 179:1	179:22 181:4,6,21
341:22	240:22 248:17	179:14,17,18,25	182:3,5,6,8,15
considerable	265:16 287:11	180:22 181:8,12	183:6,7,10 185:25
205:17 273:18	295:20 326:3	181:14,17 190:17	186:5,21 188:2,6,7
considerably	continuously	191:6,16 192:13	192:1,25 193:22
215:14 216:9	193:7	192:24 193:25	195:2 201:23
consideration	contract 194:25	220:2,4,13 221:12	203:21 204:9,10
369:20	195:7 199:1,3,9,9	332:19 333:6	204:12 206:14
considerations	199:13,16,17,19	334:25 335:5,7	208:15 210:14,22
365:11	199:20,25 200:6	336:11 337:23	210:23 211:8
considered 274:4	200:11,12 201:6	339:3	215:7,19 218:3,24
312:12,16	257:7,11 258:11		218:25 219:14

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001314

HIGHLY CONFIDENTIAL

[correct - customers]

Page 11

220:20 221:2,4,15 221:23,24 222:5,6 222:20 223:6,7,10 223:12,13 229:6 233:5,24 234:11 236:3,7,9,20 239:10,11 243:2 244:18 245:16,17 247:3,4,7,8,13,14 247:16 248:9 249:11 250:9 254:6 255:14 256:3,14 258:12 258:18 259:2,17 260:22 261:23 269:4,12,16 270:19 271:20 274:9 275:22,25 277:22 279:19 280:4,10,24 282:16 289:23 290:4,10 291:11 293:21,22,25 294:10 295:1,6,15 296:22,23,25 297:1,4,8,14,21 298:2,20 299:14 300:24 301:3,6,9 301:11 302:5,7,10 314:15,18 331:12 331:15,17 344:22 354:15,17 355:7 355:23 356:15,19 356:24 357:5 358:16,18,23 359:21 360:25 361:13,14 362:13 366:12,12 369:13 correctly 195:8 correspondence 289:15	cost 179:21 180:1 194:21 197:14 227:10,18,24 228:3 230:23,23 232:2,16 258:20 272:11,16,19 273:6,12 274:9 275:6,13 276:5 283:17 302:5 305:17 309:24 311:11 319:4,13 326:20 347:13,15 347:16 costs 231:24 272:17,18 273:1,4 273:13,15,16 274:7 286:9,17 302:9,10,15 319:5 332:19 333:1 cottrell 314:25 counsel 169:8 175:15 196:1 287:3 366:23,24 371:5 counselor 356:11 count 277:12 300:4 counteract 302:25 countermeasure 353:7 countermeasures 353:14,23 counting 305:6 country 184:24 185:4 315:13 county 369:16 couple 288:25 302:4 310:20 327:17 course 231:8 235:8 238:19	248:17 288:10,16 294:13 310:7 323:3 338:9 courses 333:8 court 167:1 175:7 175:10 176:11 315:1 364:23 365:21 366:3,13 370:1 court's 364:25 cover 213:17,18 213:22 326:20,20 366:5 covered 360:7 covers 275:16,16 314:1 cox 168:7 293:4,16 293:20,24 294:9 331:2,8,14,15 cpi 271:7,8 272:8 cr 278:2 cracks 343:12 craig 172:3 crazy 227:20 283:6 308:5 337:24 create 267:20 350:25 created 203:2 309:1 creates 267:5 creating 266:11 credible 250:1 credit 196:10 205:14,14 345:5 crippled 336:2,21 criticized 320:22 320:23 cross 343:19 crossed 282:11	crowed 214:16 crr 167:17 371:17 csr 167:17 371:17 curious 236:15 current 286:9,18 currently 216:4 220:12 233:21,23 266:4 298:9,15 customer 177:18 177:21 180:19 190:18 191:17 201:7,7 216:11,13 219:22 220:10,16 221:6,8 224:13 254:14 274:18 278:16,17 282:20 283:11 286:1 306:19,21 307:3,6 307:13,15,24 315:20,21,25 319:1 320:19 322:22 323:19 329:18 332:2,3 343:17 344:4 350:3 customer's 306:14 customers 178:1 178:10 190:25 197:4,5 223:1 224:2,3,6 227:1 253:6 255:9 260:13 269:18 278:12 279:8 280:17 281:10 305:10 306:2 307:10,11,22 308:2 318:21 326:16 327:18 333:11 341:23 344:24
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001315

HIGHLY CONFIDENTIAL

[cut - dealerships]

Page 12

cut 220:17 360:11	317:24 318:24	day's 337:2	328:6 330:20,22
cuts 193:10	319:3,6,7,15	days 302:4 307:5	330:24 331:13
cutting 243:14	320:23 324:23	327:17 361:5	342:9 355:5
cvr 215:13,18,24	328:7,12,14,18,22	365:9 370:24	dealership 168:14
d	329:16 331:25	dayton 238:4,5	175:19,21,24
d 175:1 239:23	335:7 337:20	274:24	177:13 178:2,5,6
d.c. 168:12 169:5	346:11 349:15,19	dc 168:22	178:11 179:2,2,8
dad 320:4	350:1,4,4,18 351:1	deal 205:6 228:19	179:10,22,24
daily 277:24 280:3	351:3 353:2,3,22	228:24 229:1,5	180:2,12,19,23
345:3	354:15,20,23,23	235:23 236:1,6	181:1,8,13 182:4
damage 236:24	355:5,10,12,13,16	263:6 290:6 343:5	183:4,9,14 186:13
dan 172:10 253:8	355:20,22 359:11	dealer 167:3 175:5	187:17 188:6
dangerous 232:4	database 243:18	182:14 183:1	191:2 194:12
darts 291:23	243:19,25 310:6	187:6,21,25 190:4	196:8,14 198:2
data 183:5,10	315:25	193:8 199:3,18	199:15 200:1,9,16
188:17,23 189:2	databases 243:17	204:5 258:22	204:18,20 205:11
192:18 216:15	243:21	262:8 275:24	216:16 243:19
220:4 221:12	dataset 328:18	279:9 281:24	249:1 263:23
223:16 226:10	date 209:7 255:24	282:14,17 313:22	275:5,7,11,13,21
233:11,11 236:25	268:16 286:9	316:4,7,7 321:1,16	275:23 276:2,4,6
239:9,12 242:1,7	334:1 369:2	321:18 328:1,22	293:9 312:16
242:11,17,25	370:24 371:17	329:6 332:12,13	313:1,21 315:11
243:8,22 247:9	dated 171:3,7,10	332:14,24 335:3	315:13,21 318:23
252:25 254:11	171:14,17,24	340:16,21,21	320:25 321:5
256:13 257:8	172:3,6,10,14,17	342:18 344:14	322:3 333:7
258:5,15 260:12	172:21 173:3,7,10	370:3	334:23 335:2,12
261:12 262:8	173:14,17,21	dealer's 242:16,25	335:12,24,24
264:1,2,3,6,11,15	174:3,13,16,20	243:8 278:23	343:16
264:21 273:24	184:15 245:10	280:10	dealership's
274:13,17,24	289:22 293:16	dealerbuilt 262:12	178:16 244:8
275:3,6,12,24	296:13 358:1	318:20,20 320:21	274:17,23 279:6
276:6,11,13 286:7	dave 250:5	355:4,4,16	dealerships 177:8
286:24 293:3,13	day 167:15 195:21	dealers 182:17	177:9 179:6,13
293:13 295:21,23	196:2,3 222:15,15	187:6,6,7,22,22	180:4 186:25
296:14 298:9,20	246:18 259:16	189:2 195:18,20	188:17,23 189:1
299:5,23 302:21	289:13 304:6,10	196:2,7 197:17	190:12 191:12,20
302:23 303:2,17	311:25 323:15,16	199:10 249:6	193:3,5 194:6
304:3 305:3,10	325:11 336:11,16	251:2 258:16	197:5 251:16
307:18 311:24	337:7,25 338:21	260:14 274:11	253:8,9 257:9
312:1,9,18,24,25	348:14 365:9	278:12 282:11	258:15 308:18
313:3,6 314:4,13	369:17,21 371:12	297:11 298:20	312:12 320:19

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001316

HIGHLY CONFIDENTIAL

[dealerships - discounting]

Page 13

335:22 339:20 358:16,20,23 359:21,24 360:19 360:24 362:11,13 362:22,23 dealertrack 205:16,22 207:5 209:3 293:10,20 293:25 294:10 300:22 301:13,14 331:9 332:2 333:4 dealertrack's 301:18 dealertrak 331:3 dealing 227:19 305:9 316:14 319:11 dealt 290:8 358:2 dear 253:11,12 december 171:17 174:9 213:18,20 214:2 288:8,11 decent 345:18,18 345:19 decently 263:22 decide 181:18 208:20 decided 219:24 229:13 262:2 295:10 310:16,16 334:17,19,21 336:10 339:17 340:1,3 343:1,2,3 346:15,20 decides 193:12,13 205:3 216:12 deciding 302:22 decision 207:10 209:3,9,12 254:2 264:25 270:24 283:1 310:24	340:5 declaration 353:18 dedicated 253:16 defendant 176:7 defendant's 318:5 318:8,11,17 321:20 defendants 318:6 defense 196:1 definitely 278:7 339:21 definition 210:19 288:15 degree 320:8 delete 203:9 270:16 306:18 309:1 326:11,17 deleted 270:4 308:13,16 deleterious 231:13 deleting 307:15 308:14 department 179:7 217:12,21 220:11 238:3,18,19,23 321:2 333:14 335:10 departments 297:17,18 dependent 282:22 depending 366:1 depends 188:5 212:20 deponent 170:20 370:21,22 371:3 deposition 167:8 167:12 170:16 175:4,12 314:12 364:7 365:7,10,13 365:22 366:3	367:2,10,23 368:2 368:4 369:13 370:9,18,23 371:4 depositions 346:18 365:1,4,6 describe 220:24 226:8 267:22 described 263:25 276:5 326:7 describes 189:14 description 171:1 172:1 173:1 174:1 323:10 369:18 design 303:15 designed 260:11 273:23 desist 229:4 destroy 349:5 destroyed 308:16 detail 234:5 detailed 286:3 details 350:14 360:1 detect 189:20 246:12 353:5 detection 248:12 determination 200:22 determine 200:15 201:5 282:17 determined 272:5 develop 231:18 developer 244:12 244:13,16 developing 231:23 272:17 273:14 development 203:17 204:3 213:6 223:3 244:10,13,14,16 303:16	devise 353:7 different 177:7 178:23 193:2 204:22,22,23 205:1 231:7 243:21 332:25 353:12 dig 246:22 digit 335:13,14 diligent 181:16 direct 231:20 238:14 263:7 279:2 301:8 314:2 351:14 directing 261:18 direction 296:14 directly 207:18 264:11 300:20 312:15 345:22 director 253:7 directors 210:21 210:24 211:3,8 disabled 279:9 disagree 194:23 367:24 disappointed 334:9 disappointment 249:24 disarmed 344:9 disaster 275:1 280:15 335:5 disclose 258:20 disclosing 257:8 disconnected 237:3 discount 199:15 199:18,21 discounting 193:14
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001317

HIGHLY CONFIDENTIAL

[discovered - eastern]

Page 14

discovered 306:8 306:15 309:12 discuss 202:22 212:3 255:9 349:19 discussed 239:13 239:16 287:22 332:9 349:9 discusses 332:18 discussing 232:9 318:15 discussion 233:2 233:10 241:9 300:11 318:1,9 342:3 366:23 dishonest 261:19 disk 221:9 328:17 331:22,22 dislocation 278:17 disparate 318:6 dispirited 346:20 display 341:9 displayed 341:3 disposition 280:13 disruption 180:19 180:21 190:18 191:17 dissatisfaction 343:17 dissident 292:5 distinct 355:13 distracted 285:10 district 167:1,1 175:7,7 370:1,1 division 167:2 175:8 370:2 dmi 353:25 dms 177:14,14 178:5,11,12 179:1 179:13 180:4,13 180:19 181:2	182:5,13 183:5,6,6 183:9 190:2 196:9 199:1,2,9,14,22 200:1 217:23 218:1 219:17 221:2 223:16 242:17,25 243:18 244:8 260:10 262:9 264:2,7 292:25 298:16 300:20,21 301:3,9 330:20,20 332:25 340:22 344:21,21 349:10 351:2,3 dmss 177:9,10,10 182:17 298:10 docket 365:2 document 184:5,6 194:24 195:4,13 195:23 198:25 201:15 213:13,16 218:9,11 221:16 221:22 223:14,15 230:4,6 235:1,4 240:3 241:14,16 241:17 245:9 255:6 268:20 269:6 271:21 284:16 288:10,18 292:16 300:14 351:16 352:24 355:3 357:22 362:9 369:19 documents 260:25 265:5 284:4 289:13 356:20 364:13,14,15,18 364:25 365:5 docupad 190:5 194:11,12,18,21 195:3,13,19,23	196:10,12,20,22 196:25 197:8,14 197:19,21 198:2 322:17 323:2 340:15,16,22 341:2,25 343:24 docupads 340:14 dog 308:6 doing 183:23 200:10 204:1 222:15 231:22 239:20 248:14 249:4 258:4 263:11 264:12,17 279:7 283:8 299:2 306:13 307:21 312:25 314:24 324:2 326:11,17 326:20 332:4 336:3 359:8,17 dollar 220:14 dollars 305:15 dominant 215:16 door 308:5 316:14 doubled 340:13 download 315:20 323:14 329:7,16 downloading 359:11 downloads 350:4 dozen 187:7 draft 242:1,10 255:4 332:8,17 drag 181:17,20,25 dramatically 226:5 335:18 drawn 316:5 dreamed 342:21 drive 221:9 259:22 263:18,20,24 298:7 331:22	driven 197:1 drop 190:16 191:15 192:9 332:18 361:9 dsv 239:10 240:7 273:1,15 dt 293:16 due 204:3 220:12 220:13 229:5 238:19 242:2 258:14 367:16 duly 167:14 176:14 370:16 dumb 323:19 dummies 353:11 dummy 306:19 duplicate 170:19 307:24 duplicates 307:23 duplication 170:17 duration 216:23 dust 343:12
e			
e 168:1,1 169:1,1 175:1,1 214:11 370:21 eagle 253:8,9 earlier 170:16 224:23 253:1 255:8 286:6 287:15 311:10,15 326:5 351:11 352:22 357:16 early 248:22 255:11 334:1 345:24 354:5 earth 306:5 316:7 easier 242:17 eastern 167:2 175:8 370:2			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001318

HIGHLY CONFIDENTIAL

[easy - examination]

Page 15

easy 334:25	174:15,19,19	181:3 281:9 314:2	entities 299:20
economic 342:10	184:8,11,14 185:5	employing 353:14	entitled 245:10,18
ed 190:12 339:12	185:8 201:19,19	employment 207:3	364:11
339:18,18	201:20 202:4	en 208:16	entity 195:7 202:9
edit 267:20	203:24,25 213:17	enable 258:1	228:11 263:14
edited 363:14	213:18,19,22,24	encrypted 318:24	326:11
edits 242:12	218:16,20 219:1	endeavoring 203:3	entrance 315:2
educate 194:8	230:10,13 232:8	243:10 245:23	enumerate 303:4
education 187:14	234:14 235:7,8,12	ended 307:20	environment
333:14	235:18,21 238:24	endured 233:14	336:1
effect 317:7,9	239:4,6 241:22,24	engineering	equipment 182:10
329:23	242:3 244:15	320:10	182:16
effective 255:19	245:2,5,14,15	enhancement	error 195:6
263:22	248:5,8 251:20	244:4 250:21	247:10
effects 303:1	252:18 253:2,4,7	enhancements	errors 189:21
efficiency 182:23	253:17 254:24	239:14 242:16,25	especially 182:11
efficient 227:23	256:25 258:8	243:7 248:8 250:8	238:18
299:8	259:12 260:1	250:17 251:2,6,8	essential 343:15
efficiently 181:3	263:3 271:11,18	251:17 255:12,19	estimate 305:3
effort 203:17	277:3,7,18 278:11	256:2,3,5,14 290:8	347:13
280:7	278:18,23 279:2,3	321:13 358:2,11	estimated 311:16
efforts 302:14,15	279:3,24 280:7,10	enjoyed 205:17	356:2
eight 189:3	281:7 289:14,22	enjoying 254:23	evaluations 264:4
either 178:4	289:22 291:22	enjoys 303:20	event 224:14
216:24 224:14	293:15,19 296:12	ensure 260:12	275:1 365:2
283:25	310:18 322:7	ent 301:7	everybody 193:14
electrical 320:10	334:1 345:10	enter 205:19	210:16 231:9
electronic 343:11	357:23 358:1,10	207:11 208:16	283:6,16 303:22
element 276:10	emailed 237:2	246:7 301:8	337:3 343:4
elevator 312:7	emails 252:22	313:15 350:24	evidently 298:24
eliminate 264:6	253:1 277:11	entered 215:14	exact 209:7 255:24
349:14	279:21,25 280:21	247:2	336:8 348:14
email 171:2,2,6,6	322:2	entering 301:2	363:21
171:9,9,13,13,16	employed 263:17	enterprise 302:14	exactly 214:7
171:16,23,23	354:24 371:6	302:16	215:21 217:14
172:2,2,6,6,9,9,13	employee 179:2	entire 197:19	254:10 269:6
172:13,16,16,20	180:12 190:18	307:6 315:20	280:19 290:20
172:20 173:2,2,6,6	191:17 274:19	365:2,8 367:22	291:7,12 292:3
173:9,9,13,13,16	371:8	entirely 342:13	360:1
173:16,20,20	employees 178:10	entirety 315:25	examination 170:5
174:2,2,12,12,15	178:16 180:24		170:5,6,6,7 176:15

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001319

HIGHLY CONFIDENTIAL

[examination - familiar]

Page 16

210:8 237:11 240:22 265:16 287:11 289:8 300:12 326:3 354:10 357:14 example 202:12 231:16 293:9 323:24 324:10 329:5 332:12 358:13 examples 190:7 exception 253:19 254:4,6 359:18,25 exceptions 358:13 359:1,10,21 361:6 excess 345:23 exchange 204:5 226:10 322:4 334:1 excuse 358:6 executed 369:20 executive 302:20 308:9 339:22 executives 305:7 exempted 330:11 330:11,12 exemption 202:13 202:13,20 203:21 203:23 exemptions 249:9 250:8,17 357:17 358:23 360:25 361:10 exercise 258:9 exhibit 171:2,6,9 171:13,16,20,23 172:2,6,9,13,16,20 173:2,6,9,13,16,20 174:2,6,9,12,15,19 184:1,2 201:9,10 213:9,12 218:5,8	221:18,19 226:12 228:15 229:25 230:3 234:20,21 237:12,16 238:24 240:23 241:2,8,21 244:21,22,25 247:23 248:1,3 249:10 250:13 252:2,5,11,16 254:17,18,21 256:19,22,23 257:1 259:6,7,10 259:16 262:20,23 262:25 268:21,22 268:25 269:2 271:13,16 276:14 276:17,20 281:13 284:11,12 288:7 288:13 289:14,18 292:14 293:15 296:11,16 300:15 300:16 318:2,5,17 321:22 351:11 357:21 361:15,20 361:21 exhibits 170:16,17 170:20 171:1 172:1 173:1 174:1 300:7 exist 288:3 existed 288:2 existence 216:10 expect 332:24 expectation 229:11 expected 190:16 191:16 337:6 expecting 228:17 expects 229:5 expediency 204:3	expense 231:20 310:10,12 expensive 317:23 experience 180:9 196:22 337:23 346:5 357:1 experienced 337:21 339:22 expiration 371:17 expires 369:24 explain 227:9 243:10 321:16 352:23 explaining 305:17 export 247:8 exported 247:2 exports 247:6,12 exposed 196:19 319:2,6,7 exposure 318:25 319:4 expressed 249:23 369:20 extended 341:4 343:9 extension 366:9 extensive 359:3 extent 315:6 extra 326:13 367:2 367:4 extracting 312:25 extraction 264:2 extreme 246:22 extremely 190:4 303:17 eyes 167:9 171:5,8 171:12,15,22 172:5,8,12,15,19 172:22 173:5,8,12 173:15,19,22 174:5,8,11,14,18	174:21 365:11 eyesight 335:3 f f&i 341:21 344:17 fabric 343:13 faced 307:13 facilitates 207:4 facility 326:22 328:14 fact 187:19 190:1 204:17 248:21 258:14 260:8 261:1 269:4 292:22 295:10,11 299:17 301:7,8 304:9 313:9,20 315:10 316:15 320:17 323:21 363:16 factor 179:13 208:23 factors 194:2 272:23 facts 206:19 fair 176:23 178:25 180:3,7,11,18 181:7 183:20 191:14 194:5 202:19 208:14 226:3,19 242:24 243:6 247:19 249:19 250:3 269:9,13 279:11 327:15 fairly 263:22 297:11 298:24 falls 278:18 familiar 204:6 215:13 224:11 225:1 253:8 257:3 318:12 332:4
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001320

HIGHLY CONFIDENTIAL

[familiar - forever]

Page 17

363:3 fangs 354:6 far 181:14 187:15 189:22 193:2,9 213:5 216:21 222:24 223:2 228:8 246:9 254:22 285:25 303:18 310:23 311:3 314:8 328:18 359:10 363:20 365:3 fashion 258:3 fault 317:18 fdc 316:3,3 feature 242:22 259:22 features 242:1,11 february 174:13 226:4,11 289:16 289:23 348:16 federal 167:21 fee 194:18 257:13 258:15 268:10 269:14,23,24 270:2,3,9,12,15,17 270:21 271:22 276:12 281:25 282:14,18 326:8 326:24 feed 261:15 feeds 264:11 feel 231:15 242:18 312:1,5 314:19 345:13 367:14 feelings 345:20 347:20 fees 257:8 276:9 282:10 286:7 347:15	felt 305:11 fico 205:15 206:22 field 346:11,11,12 fields 346:12 figel 168:10 fighting 347:15 figure 245:24 286:23 305:14 307:5 338:7 353:11,21 file 200:12,13 307:6 310:22 filed 296:21 files 216:15 274:24 315:20 filing 274:21 366:10 final 280:12,20 343:8 finalize 343:7 finally 181:17 205:3 320:3,14 336:4 343:22 346:19 347:10 355:8 finance 194:24 196:23 197:4,11 342:23 344:15 finances 221:23 financial 171:20 174:6,9 220:16,18 222:4,7,8 229:12 234:1,4,8 284:15 288:7 301:23 312:12,17 financially 371:9 financials 223:12 231:10 financing 205:8,10 205:16 207:5 312:19 343:2	find 212:8 307:7 307:23 351:10 361:17,18 fine 240:16 329:18 365:17 finish 205:23 206:2,4,9 227:14 229:10 305:19,20 364:2 365:15,21 finished 262:1 296:18 finite 323:21 fire 185:19 273:25 338:3 fireproof 274:21 firm 175:16 227:25 firm's 349:19 firms 350:10,18 first 176:14 179:1 185:6,8,10,14,16 185:21 186:23 189:17,20 190:17 191:16 195:8 206:5 207:24 211:10 214:13 219:23 233:1 236:22 239:8 241:3 252:25 268:7 277:15,18 279:16 292:17 297:6 302:19 314:24 315:9 319:4,4,14 323:9 323:12 333:25 334:22 337:25 339:10 361:15,21 361:25 fit 315:24 five 187:22 199:7 199:10 212:22	222:16 231:17 252:12 270:17,21 324:16 330:3,3,4 340:12 344:18,18 347:10,16 359:24 360:19,24 fix 195:9 246:12 308:24 309:13,16 309:17 310:21,23 347:8 fixed 211:4,10 212:7,20 flat 344:2 floating 321:17 floor 168:17 303:25 304:1 346:23 flow 273:21 focus 255:17 269:4 281:14 302:21 focusing 205:21 210:10 folks 210:17 261:7 292:6 299:22 338:3 354:1 follow 233:21 234:4 followed 232:5 following 238:7 239:17 370:15 follows 176:14 233:24 footnote 228:16 229:23 force 194:9 347:1 forced 204:2 foregoing 369:12 369:19 foreign 246:5 forever 209:2 292:19 293:6
---	--	--	---

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001321

HIGHLY CONFIDENTIAL

[forever - gentlemanly]

Page 18

294:24 295:15 311:24 336:7 forgery 202:7 forgiveness 337:4 form 177:11,16 178:7,13 179:4,15 179:23 180:6,14 180:20 181:5,10 181:22 182:2,18 183:11,21 186:1 187:3,12 188:10 189:7,11,19 191:10,18 192:2 193:23 194:15,20 195:13,23,25 198:5,9,15,20 200:2,19,23 201:3 202:5,14,21 204:14,16 205:13 207:23 209:14,19 211:16 212:4,12 213:21 214:3 215:4,8 216:5 217:5,9,11 218:2 219:13,18 221:3 222:21 224:4,9,16 224:20,24 225:9 226:6,15,21 227:7 229:7,21 233:6,18 233:25 234:3,12 234:17 236:8,19 243:1,9 244:17 249:12 250:10,18 250:23 251:4,11 252:20 253:25 254:7 255:13,22 256:10,15 257:10 257:19 258:17 260:18,23 261:24 262:10,16 263:15 264:8,23 265:2,21	266:7,15,22 267:10,21 268:12 268:15 269:11,15 269:25 270:14 271:1,23 272:6,12 273:17 274:8 275:8,14,19 276:1 276:7 277:5,9,16 278:13,24 279:14 279:18 280:5,11 280:18,25 281:5 281:18 282:3,8,19 283:21 284:21 285:3,18 286:11 286:19,25 287:17 287:24 288:4,12 288:21 290:3,18 291:1,10,15 292:2 292:21 293:7 294:1,11,25 295:5 295:16,24 297:9 297:15,22 298:3 298:11,14,17,21 299:15 354:16,21 355:11,18,24 356:18,23 357:4,9 358:5,17,24 359:23 360:21 361:1 362:14,17 362:19,25 363:15 formal 215:25 forming 208:7 forth 312:23 338:15 353:17,22 366:23 fortunately 306:23 316:16,16 forward 233:13 242:11 261:6 262:2	forwarding 289:15 found 185:15,15 263:22 264:19 285:16 307:1,4 324:6 362:6 founded 209:6 215:23 four 187:6 211:6 324:16 325:11 347:4,5 frame 245:21 255:25 268:13 francisco 212:1 franklin 315:11 317:12 318:15 frankly 179:18 201:23 228:4 242:5 fraud 313:14,14 frcp 370:20 frederick 168:10 free 195:4 freight 275:2 frequently 325:7 327:7 friday 238:7,8 364:21 friend 254:14 front 230:17 253:17 260:25 300:17 345:10 355:3 frustration 249:24 ftc 316:13,15,23 317:16 319:12 ftc's 317:9 fully 186:12 function 309:3 functionality 247:9 257:24	258:6 265:20,24 266:6,8 267:2,3,9 267:11,13,17,19 267:24 282:22 311:2 328:6 functions 268:2,4 fund 292:6 further 170:6,7 242:16,25 243:7 284:25 285:11 300:1 306:24 334:20 354:8,10 357:14 367:17 370:20 371:5,8 future 366:11 367:12
			g
			g 175:1 gaining 315:2 gap 296:5 gears 345:8 general 169:8 183:13 199:6 221:7 251:5 264:24 271:2,3,7 297:23 301:25 302:1,16 315:13 315:17 generally 180:10 211:9 215:13 220:25 276:11 generate 236:18 generated 228:18 generates 326:12 generating 342:15 generation 347:1 347:2,18 generator 197:15 323:14 342:2 gentlemanly 292:8

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001322

HIGHLY CONFIDENTIAL

[getting - gully]

Page 19

getting 276:22 279:7 280:8 315:2 319:24 320:13 321:9 353:6	337:6 339:23 340:5 341:16 343:20,23 344:9 344:25 353:14 360:11 361:15 362:7 366:8,8,25	350:10 359:18,25 360:5,9,14 364:6,7 364:16 365:13,14 365:18 366:2	190:8 192:1,13,23 198:13 337:14,23
giant 205:7	goal 207:8 304:5 304:12 335:22 340:19	good 175:2 176:17 203:1 205:5 206:11 207:5 209:25 225:11 250:6 252:13 254:14 260:6 262:18 265:18 289:10,11 294:16 299:18 307:25 308:10 311:8 316:16 321:10,11 323:2 325:16,18 325:20 329:5 341:6 345:1,20 357:5 363:20	groups 192:5,8 249:18 grow 185:19 grown 320:13 guess 211:5 278:5 guesstimate 356:25 357:3,12 guestaq 201:17 201:25 202:9,20 203:21
gibbs 167:19 168:4 175:12 176:1,5	goals 304:18 god 260:6 308:10 308:16,19 310:23 345:6	gordon 192:12 gotten 319:10 338:18 348:4	gulleys 168:3 170:6 176:1,1 177:11,16 178:7,13 179:4,15 179:23 180:6,14 180:20 181:5,10 181:22 182:2 183:11,21 186:1 187:3,12 188:10 189:7,11,19 191:10,18 192:2 193:23 194:15 195:24 198:5,9,15 198:20 200:2,19 200:23 201:3 202:5,14,21 204:14,16 205:23 206:2,9,14,16 207:23 209:14,19 209:25 211:16 212:4,12 213:21 214:3 215:4,8 216:5 217:5,9,11 218:2,7 219:13,18 221:3 222:21 224:4,9,16,20,24 225:3,9,18,21 226:6,15,21 227:7 227:13 229:7,10 229:21 233:6,18
gibbsbruns.com 168:6,6	goes 179:17 182:23 189:15 234:7,7 238:10 281:8 283:6 299:23 331:22 345:21	grace 308:19 gramm 312:11 grammar 189:23 granted 254:5 granting 202:13 202:20	
give 181:18 183:2 210:14 218:12 221:10 238:3,4,4 261:9 277:2,11 289:16 293:17 296:14 314:21 328:7 341:14 345:3 365:9	going 179:19 187:19 191:25 192:19 211:25 212:1 220:2,4,12 221:10 222:4 225:5,5 227:13 234:25,25 244:10 254:1 255:16 261:5,8,9,20 271:7 276:22,24 277:1 278:6 281:11,14 282:18 283:9,12 284:15,16 285:14 288:23 299:4,8,9 304:18,25 306:6,9 307:14 309:3 310:25 315:8 321:8,17,20 324:15 325:20,21 334:8 337:15 343:3 346:25 347:18 348:11	great 278:17 347:4 greater 187:22 greatest 189:22 333:6 greatly 183:12 236:11 green 204:24 gross 234:6 344:14 344:17 grossman 168:16 175:18,21 group 184:20,23 185:4 186:17,19	
given 190:17 191:17 195:21 220:6 237:19 250:8 261:23 344:4 364:10 369:21 370:18			
global 168:20 176:10			
go 180:1 181:15 182:24 185:21 187:24 189:14 190:6 193:16,17 198:25 199:19,20 200:11 201:5 204:23 205:5,15 206:4,16 216:21 223:14 237:4 243:16 255:5 262:2 277:10 285:7 303:4 307:6 307:22 309:7 310:3,20,23 324:4 325:19 333:4			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001323

HIGHLY CONFIDENTIAL

[gulley - happens]

Page 20

233:25 234:3,12 234:17 236:8,19 237:2 240:16 241:5,13 243:1,9 243:13,16 244:17 249:12 250:15,18 250:23 251:4,11 252:20 253:25 254:7 255:13,22 256:10,15 257:10 257:19 258:17 260:18,23 261:24 262:10,16 263:15 264:8,23 265:2,4,7 265:21 266:1,7,15 266:22 267:10,21 268:12,15 269:11 269:15,25 270:14 271:23 272:6,12 273:17 274:8 275:8,14,19 276:1 276:7 277:5,9,16 278:13,24 279:14 279:18 280:5,11 280:18,25 281:5 281:18 282:3,8,19 283:21 284:19,21 285:1,3,18 286:11 286:19,25 287:5 287:17,24 288:4 288:12,21 289:1,7 290:3,18 291:1,10 291:15 292:2,21 293:7 294:1,11,25 295:5,16,24 297:9 297:15,22 298:3 298:11,14,17,21 299:15 300:3,13 301:7,12,18,22 302:8,13 303:9 304:12,19,23	305:1,16 309:24 310:10 311:1,10 311:22 312:1,7 314:3,12,19 316:19,22 317:6 318:4,10 320:1,14 321:24 322:7,14 322:19 323:4 324:13 325:2,6,12 325:19 326:4 327:9,16,21,25 328:5,10,21 329:2 329:13,19,22 330:1,10,15,19 331:2,7,13 332:7 332:17,24 333:11 333:17,25 334:10 334:14,15,17 339:9 340:1,9,15 340:21 341:25 342:6,12 344:20 345:8 346:1 347:22 348:3,10 348:16,19,25 349:4,9,13,18,22 350:7,17,24 351:6 351:10,24 352:2,6 352:12,21 353:24 354:7,16,21 355:3 355:11,18,24 356:7,10,18,23 357:4,9,18 358:5 358:17,24 359:13 359:23 360:3,8,21 361:1,11,24 362:2 362:14,17,19,25 363:12,15 364:1 364:18,22 365:23 366:2,7,13,16,22 367:19	gunning 292:11 guns 316:5 guts 268:7 guy 248:15 292:7 338:2 guys 316:11 319:23 324:15 337:15 338:8 h h 172:20 214:11 338:1 340:3 hacker 315:4,6 324:2 hackers 245:25 314:14,21 353:3 hacking 229:4 236:23 half 185:6,10,16 189:17 211:20 212:9 254:9 285:24 305:15 308:5 311:18,20 311:25 325:10,11 337:2 356:10 362:1 365:9 halfway 186:23 357:23 hall 330:18 hand 212:21 224:18 289:13 296:6 308:4 321:20 328:10 332:7 338:7 351:11 369:21 handed 292:16 293:14 296:11 344:11 handful 231:4 handing 318:4 handle 197:11 344:15	handles 217:13 handling 279:21 hands 214:15 319:10 343:4 handwriting 281:15,19,23 282:12,15 handwritten 282:6,9 hansen 168:10 175:24 happen 180:10 187:20 217:20 294:13 309:4,13 309:23 319:21 327:24 350:15 355:1 happened 180:8 222:16,17,18 244:3,9 254:9 269:17 270:6 279:1 280:15,15 308:11 309:8,18 316:8 317:21 318:20 320:4 322:21 323:17 337:20 354:14 355:9 happening 191:23 243:3 248:15,20 248:23 260:24 261:17 290:20 291:5 298:22 299:6 306:15 319:8,25 happens 182:25 193:7 205:12 217:19 220:25 309:11 320:25 342:22 343:24
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001324

HIGHLY CONFIDENTIAL

[happy - implemented]

Page 21

happy 177:3 299:6 299:17 308:7 316:2 337:1 hard 221:9 246:10 hardware 276:3,9 339:6 harvard 290:12 harwood 169:9 175:9 hate 344:8 he'll 193:9 340:9 head 186:9 213:6 272:25 321:2 heading 185:22 224:18,19 headquarters 335:4 health 365:10,11 367:6,13,16 hear 319:20 heard 195:18 314:13 339:3 hearing 253:5 296:25 heart 205:4 294:17 heat 272:20 heavily 282:21 hedge 292:6 held 175:12 211:24 231:6 362:12,23 363:8 hell 308:22 315:8 317:22 hellyer 172:20 help 205:11 267:6 292:10 333:11 337:13 346:21 347:22 helpful 269:3	hendrick 184:15 184:19 185:1,23 185:23 186:4,7,15 186:19,21 189:5 191:25 192:23 193:22 198:12 332:9 334:2 335:20 336:10 337:11,13 338:6 339:9 358:14,15 358:25 hendrick's 335:4 338:18 herb 190:11 363:2 herb's 190:11 hereto 167:22 hero 338:7 high 179:9 237:20 276:24 306:13,20 343:17 344:3 higher 283:13 highest 260:12 highlight 225:16 highlighted 225:14 286:6 highlighting 285:10 highly 167:9 171:4 171:8,11,15,19,21 171:25 172:4,8,11 172:15,18,22 173:4,8,11,15,18 173:22 174:4,7,10 174:14,17,21 hill 172:6 hired 223:1 339:18 346:24 hires 286:1 historical 222:13 history 324:10	hit 308:7 hold 346:15 holding 290:9 365:7 holds 211:7 hole 278:19 311:8 honestly 213:23 217:12 240:5 honors 216:13 hope 310:23 horrible 179:11 180:16 hostile 324:23 hour 211:20 212:9 285:24 366:5,9,14 366:15 hours 255:20 323:15,16 325:11 365:8 367:22 house 253:12 303:25 houston 167:20 168:5 175:14 238:4 346:8,24 hub 273:22 huge 262:19 341:24 hughes 168:16 175:20,20 huh 300:23 345:12 humans 246:14 hurry 292:9 hurt 233:14 hurtful 233:12 i ibm 303:13,14 idea 242:14 317:24 337:24,24 ideas 319:24 identical 267:1,2	identifiable 264:16 identification 184:3 201:11 213:10 221:20 230:1 234:22 237:13 240:24 244:23 247:24 252:3 254:19 256:20 259:8 262:21 268:23 271:14 276:15 284:13 288:14 289:19 292:15 296:17 318:3 321:23 identified 190:1 276:12 identify 258:2 307:16,16 identity 369:18 ids 297:13 330:11 330:11 ignored 323:21 ii 171:3 318:13 illinois 167:1 175:7 370:1 image 305:12 images 326:14 imagine 273:5 immediately 255:19 immense 323:23 impact 222:17 253:1 325:12 326:23 327:9 implement 245:20 246:25 268:10 358:3,3 implemented 247:15,20 269:14
---	---	--	--

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001325

HIGHLY CONFIDENTIAL

[implemented - intelligence]

Page 22

270:9,12 358:11 implements 217:8 implied 177:21 implies 206:5 importance 233:20 important 222:24 223:4 259:18 260:4 270:6 273:20 286:2 299:19 303:17 333:10 335:10 imposes 227:24 impossible 230:24 improve 243:24 248:18 290:24 291:14 304:25 improved 304:7 327:13 improvement 247:5 improvements 245:11,19,19 246:24 247:1,16 247:20 249:11 inaccurate 198:14 198:19 215:3 249:22 inadvertent 170:16 inaudible 196:1 289:11 329:21 332:16 incentive 336:25 inches 304:1 incidences 196:17 incident 269:7,8 309:12 318:16 354:13,14,19 355:15,19 367:6	incidents 198:1 include 272:17 305:7 included 273:11 302:21 including 347:14 incomes 234:5 increase 225:25 270:23,25 271:4 271:22,25 272:2,4 283:9,17 326:20 increased 224:15 270:21,22 increases 238:21 increasing 282:25 incredible 320:24 indemnifies 312:22 independently 299:2 index 170:1 india 246:16,17 indicate 213:23 indicating 193:18 341:17 343:20 344:3 individual 175:24 183:13 201:6 237:24 238:15 271:5 319:1 345:17 individually 246:7 247:2 256:7 individuals 359:6 359:7 industry 179:10 193:7 290:15 294:14 inevitably 238:21 321:15	infancy 239:15 infer 191:21 inference 353:17 inferior 333:18 inform 217:4 informal 212:6 216:4,20 217:1 219:2,5,9,11,15,20 287:14,22 information 196:23 205:19 206:24 219:25 222:8,13 228:6 231:5 244:7 264:17 267:6 284:4 300:9 301:24 308:17 316:2,20 317:4 319:9 326:12 329:7 331:25 informed 251:2 informing 258:14 inherent 205:6 inherently 193:3 inherited 303:25 initial 197:14 213:12 338:3 initially 207:14,22 initiated 299:13 initiative 335:19 injunction 296:24 innovators 354:20 inputs 206:19 inquiries 233:19 insert 257:23 inserted 229:24 inserting 258:5 282:2 inside 205:5 230:17 335:19 343:13 345:17	346:12,12,12 install 282:14 333:15 338:17 installation 194:13 195:9 281:24 282:10,18 337:25 installations 182:25 installer 338:5 installers 333:15 instance 167:13 179:7 188:4 194:24 229:23 248:21 273:19 292:23 327:6 328:16 332:2 341:4 instant 284:1 instantly 341:9 institution 312:17 institutions 312:12 instruction 198:21 255:23 instrument 369:19 insurance 274:1 342:23 integra 353:25 integral 265:25 266:3 267:4,17 268:1 integrate 181:3 integration 257:8 258:15 integrator 354:15 354:23,24 355:14 355:16,20 integrators 355:6 355:10 intelligence 293:12 295:19
---	---	---	---

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001326

HIGHLY CONFIDENTIAL

[intend - kind]

Page 23

intend 244:9	invested 305:3	issuing 249:5	jump 183:14
intended 186:6	investigating	it'd 296:6	jumped 226:4,20
intent 218:19	209:5	item 271:5	226:24 365:17
intention 264:10	investigation	j	june 172:21 173:3
inter 220:8	317:10	j 168:15	173:14 174:16
interact 197:1	investment 244:2	january 167:10,16	253:3 254:25
interacts 214:24	311:16,24	171:20,24 175:3	255:11,21 260:6
interest 215:17	investments	196:4 211:24	263:3 268:10
interested 223:1	243:23	224:1,22 230:11	293:16
228:23 229:16	involve 205:10	369:2 370:10	junk 280:7 307:2
233:4,7 236:10	354:23	371:12	k
278:5,7 285:25	involved 177:23	jlong 168:13	k 168:3,22
320:11 371:10	178:15 186:8,11	job 207:6 283:7	keep 177:19 186:3
interesting 310:7	208:9 210:16,17	288:11,16,17	186:18 195:15
324:6 337:19	231:16 245:23	328:16 334:25	199:4,5 225:14
interface 202:18	264:14 271:4	jobs 306:5 323:1,8	228:1,11 231:5
267:7 270:13	308:1 315:7	324:11 331:20	285:14 296:3
295:3,4 354:14	317:18,21,24	332:3	304:12 305:12
interfaces 266:9	340:6	joe 175:25 214:13	310:8,13,21,25
272:17 273:14	involvement 271:6	john 168:16	311:13 336:3
282:21 283:20	involves 205:8	175:20 253:7,9	341:18 364:7
292:19 293:6	219:21	joint 204:8 207:11	367:1
294:23 295:3,14	involving 262:12	207:21 208:16	keeping 367:22
interiors 205:1	296:25	215:11	keeps 361:7
interlopers 246:9	iphone 178:21	jointly 350:10	keith 172:6
intermediate	iphones 178:22	joke 225:3	kellogg 168:10
220:8	irvine 281:23	jon 173:20 208:9	175:23
internal 193:17	issue 187:13 188:1	214:25	kelloggghansen.c...
227:10,18	224:10 254:13,16	jonathan 172:10	168:12,13
internally 319:20	268:17 273:25	173:13 174:3	kelly 330:18
internet 273:19	278:20 280:14	joseph 168:10	kept 199:5
315:25	282:24 302:21	journalling 309:1	key 190:1 238:18
interval 309:11	305:10,25 307:1	309:2	333:10 338:1
invade 304:10	307:14 326:8	judgement 299:24	343:11
invent 197:21	issued 249:16	judgment 264:20	keystroke 335:16
345:5	334:7	july 173:17 174:3	kill 308:6
inventory 204:24	issues 190:1	174:6,20 271:11	killer 345:4
221:7,7	193:25 281:8	277:4,8,8,19,20	kind 178:21
invest 202:17	290:7,8 302:24	284:14,17 286:8	193:18 195:10
303:10	305:9,18 330:14	296:13,20 351:24	203:5 204:20
	330:16 340:25		205:5,20 227:20

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001327

HIGHLY CONFIDENTIAL

[kind - knows]

Page 24

235:12 247:12	207:4 208:21,24	267:25 268:1,7,18	321:13,18 322:23
261:7 264:18	209:5,21,21,22	268:19 269:4,5,16	323:22 324:5,7,8
267:14 268:5	210:18,19 211:6	269:18 270:2,5,23	325:17 326:23
269:20 291:19	211:10,11 212:7,8	271:3,5,6,8 272:4	327:5,7,14,15
292:6 294:15	212:9,21,21 213:2	272:22 273:10,12	328:19 329:4,13
303:3,23 304:6	213:3,4,8,22 214:4	273:19,20 274:22	331:18,23 332:1,5
308:9,12 313:9	214:4,6,11,13	276:12 277:1,24	333:3,4,7,21 334:6
315:14,15,23	215:15 216:9,10	278:19 279:4,5,9	334:20,24 336:4,8
317:24,25 319:3	216:12,24,24	280:12,13,14,19	336:14,16,17,22
319:18 320:11	217:12,14 219:20	280:19,20,22	336:23 337:4,8
325:1 333:6	219:20 220:6,11	281:6,6,7,8,11	338:3,3,5,5,7,9,16
335:12,16 336:15	221:6 224:11	282:22,23 283:3,8	338:22 339:1,2,5
338:1,2,16,18	226:17,25 227:1	283:12,14,14,15	339:20 340:3
341:6 343:2,4	227:11,16,20,23	283:16 284:1	341:1,4,5,18,21,22
348:5 349:23	227:25 228:1,5,9	288:15 290:21,22	342:10,19,24
353:5,16,16	228:10 229:13	291:2,3,19,19,22	343:11,13 344:1,9
354:24 357:12	231:1,3,16,17,19	292:3,5,5,24 293:2	344:25 345:23,24
359:18,25	231:20,21,25	293:11 294:2,16	346:5,8,13,14,18
kinds 283:2 343:9	232:6,17,25 233:1	295:21 296:3	348:1,14 350:11
knew 339:16	233:3,10,13,21	298:25 301:18	350:20 351:15
364:18	234:5,5,6,25	302:22,25 303:3,3	353:11,16,19,22
know 177:1,2	235:19 236:21,23	303:7,16,18,19,19	354:4,25 356:25
178:14,20,23	236:24 237:3,23	303:24 304:5,8,10	357:11 358:25
179:16,17 180:9,9	238:15,17,21	304:18 305:7,8,11	359:8,10,11,18,18
181:12,18 182:19	240:10,11 241:16	305:13 306:5,7,7	361:2,2 363:1,10
182:24 183:1	243:23 244:2,5,6	306:19,20 307:4	363:21,21 364:24
186:16 187:5,8,16	246:9,13,14,18	307:12,13,24	366:25 367:1
187:18,19,23	247:8,17 248:11	308:4,8,16,17,18	knowing 200:20
189:21,23 190:23	248:12,15,21	308:19,19,19,22	227:16 278:6
190:24 191:1,2,2,4	249:5,7,14,15	308:25 309:3,15	knowledge 192:11
191:22 194:10	250:25 251:13,18	309:18,19 310:3	195:5 220:24
195:8,14,15,16,16	253:23 254:1,8,10	310:12,14,16,19	319:12 350:16
196:2,20,21,21,23	254:12,12 255:15	311:12 312:6,9,10	356:25 363:7
196:24,25 197:2,3	256:6,8 257:12,21	312:11,11,21	knowledgeable
197:9,18,21	257:22,23 258:21	313:2,4,6,10,24	330:15
198:10 199:2,6,7	258:22,23 260:7,7	314:11 315:2,2,5,8	known 239:10
199:11 200:11	260:11,25 262:7	315:9,12,16,22	304:17 369:17
201:4,5 202:11	262:17,18 263:21	316:1,4,4,11,13,14	knows 308:17
203:4,11,17 205:2	264:9,10,15,19,21	317:7 319:1,1,4,8	339:19,20
205:7,8,19 206:10	266:8,10 267:3,3,5	319:9,16,24 320:8	
206:19,20,21	267:6,11,13,14,16	320:12,19 321:2	

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001328

HIGHLY CONFIDENTIAL

[l - long]

Page 25

l	lead 259:22	303:4 363:22	listings 315:15
l 167:17 370:13	leader 348:6	levels 204:22	lists 190:10 279:2
371:17	leaders 191:2	liabilities 264:14	litigation 167:4
lack 310:17	leading 190:5	312:23 321:16	175:6 286:18
337:23	leap 205:5 317:19	liability 321:7,8	299:13 370:4
lady 253:11,12	learn 178:16,20	liable 231:22	little 193:1 200:4
lamb 170:17	179:19,25 181:19	264:19	204:5 207:1
171:10 174:16	183:15 194:9	license 279:23	222:14,25 241:6
184:9,16 185:6,8	333:9 348:10	313:21,22,23,23	245:5 248:19
185:23 186:4,19	learned 291:17	314:1,1 344:21	249:3 266:17
186:20,25 188:8	learning 180:24	lie 338:20	283:13,18 295:12
188:16 189:4	181:14,16 187:20	life 303:24	296:7 298:25
190:15 191:8	leather 205:2,2	light 272:20	299:1 303:5 313:7
192:22 193:19	leave 216:12	lights 193:8,11	337:3 339:20
198:12 230:20	242:17 253:12	likes 283:16 308:6	343:6 345:9 359:5
293:15,19 294:20	331:14	lime 243:20,24	lives 308:5
332:9,18 361:19	ledger 221:7	263:13,14 279:13	lloyds 213:2
361:25 363:13	left 224:18 315:22	279:20,23 280:24	llp 167:19 168:4
laptop 315:21	315:23 354:9	281:1,4	168:16 175:13
large 319:15	legacy 280:17	limit 203:23	load 275:2 283:11
358:19 359:2,6	legal 286:7 288:15	247:11 277:18	305:8 323:22
larger 185:1	312:10 313:5	278:22 280:9	327:10,14
227:19	347:15	360:10,23	local 318:22
largest 184:19,20	lender 206:24,25	limited 232:8	located 175:13
184:22,23 185:4	length 199:2,12,16	268:4,4 313:23	323:11
208:14,17,18	letter 184:14,17	line 181:24 223:23	location 306:14
358:21 359:2	185:6,10,17,21,22	223:24 225:18	locked 209:2
laser 182:11,11	185:22 186:4,19	230:13 258:9	locks 343:11
late 211:24 255:12	186:20,23 189:4	285:4 349:1 352:6	log 309:5,6 310:6
305:1,2 356:11	189:17 190:7	369:3	310:8 311:2
laugh 324:7	191:9,25 192:18	lines 284:23 285:7	logging 309:15
law 167:19 227:25	198:12,13 319:5	link 353:25	327:14
313:11,18	332:9,17 361:23	lisa 254:13	logic 308:12
lawsuit 264:18	361:25 363:11,13	list 249:23 250:3	logical 244:11
296:21,25 299:23	363:17,25	250:19 253:14	long 168:10
lawyer 301:19	letters 240:12	274:3,7 287:18	175:25 177:3
lax 309:22	letting 237:3	300:21 303:4	199:20 216:12
layouts 346:10,11	level 188:11	323:7 336:16	231:16 266:17
346:11	199:14 222:6	listed 192:8	293:1,2 310:8,13
leach 312:11	233:2 234:5	214:23 249:10,18	310:25 314:3,11
	260:12 276:24	250:12 362:12,22	320:15 338:10,14

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001329

HIGHLY CONFIDENTIAL

[long - marking]

Page 26

343:22 345:2 360:6,10 364:9,10 longer 182:1 199:22 254:13,16 274:3 280:14 288:3 290:7 334:21 365:8,12 365:23 longest 199:25 200:3 look 183:1 185:5 200:22 202:23 206:25 241:8 245:25 246:1,4,13 246:18 248:14 259:20 266:9 268:5 285:21 288:8 292:11 316:9 321:21,24 324:13,18 336:2 336:22 357:21 looked 226:12 228:16 249:20 267:14 286:6,13 311:17 347:4 363:17,20 looking 204:20,22 227:4 233:13 241:10 285:5 323:5 332:20 351:16 352:16 361:4,20 looks 203:15 214:7 224:1,25 246:5 272:7 loop 247:18 loose 317:23 343:22 lord 345:3 346:20 lose 177:21 307:18 307:18 339:9	loses 185:19 loss 178:9,10,10 308:9 310:14 lost 177:17,25 337:2 346:19 lot 182:25 189:2 189:21 196:6 231:23,24 251:15 258:4,4 292:4 310:21,21 313:19 318:21 320:8,23 323:25 336:18 337:20 347:19,21 352:21 360:6,7 364:10 lots 277:11 360:7 louisiana 167:20 168:4 175:13 love 197:4,5 320:4 low 338:1 lowering 192:24 lunch 265:5,9,12 265:13 m m 168:11 ma'am 176:21,24 177:6 179:16 182:3 184:7,10,13 184:18 185:20 186:2,6 187:4 194:19 195:20 196:2,11,13,16 198:22 199:24 200:17,24 201:16 202:2,6 204:7 210:12 211:23 213:14 214:4 215:5,9 216:18 217:3,6 218:18,22 219:7,10 222:2 223:18 228:20	229:17 230:7,9,21 233:7,19 234:18 235:5,18 239:5 241:20 242:4,21 245:1,22 251:18 252:17,21,24 254:8,23 257:2 259:11,14 263:1,2 276:21 282:4,7 360:22 361:2 362:10,21 363:1,9 machine 167:18 mad 345:24 magic 341:2 magnitude 340:5 mail 279:2 main 247:20 261:20 mainline 257:23 261:14 maintain 203:10 maintenance 194:18 272:19,20 273:15 275:15,17 276:3,9 major 187:1 249:10,19,23 250:3,7,12 294:13 maker 207:10 270:24 making 193:13 209:12 283:1 284:8 342:14 356:24 365:21 management 167:3 175:5 186:13 190:11 221:22 297:25 298:13 370:3 manager 197:4,11 214:19 315:13,18	344:15 manager's 196:24 managers 344:18 manner 293:12 294:17 299:8 manpower 272:22 manually 253:15 manufactured 322:25 mark 168:21 176:9 218:6 marked 184:1,2 201:9,10 213:9,12 218:5,8 221:18,19 228:15 229:25 230:3 234:20,21 237:12,15 240:23 241:1 244:21,22 247:23 248:1 252:2,5 254:18 256:19,22 259:5,7 262:20,23 268:22 268:25 271:13,16 276:14,17 281:13 284:10,12 288:13 289:18 292:14 296:11,16 318:2 321:22 332:8 351:11 market 259:1,2 264:3 294:21 347:16 350:25 marketing 243:19 243:20,25 263:17 marketplace 207:9 231:18,19 233:10 302:23 303:21 305:13 345:22 marking 254:17 318:4
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001330

HIGHLY CONFIDENTIAL

[martin - motion]

Page 27

martin 173:20	mechanism 329:16	milberg.com 168:18,19	296:14 318:15
massive 197:15	medals 239:23	million 228:18	321:21
master 315:14	media 237:5,9	229:6 305:15	moments 281:10
master's 320:9	265:10,14 325:23	311:7,18 346:13	monday 247:7
matter 175:5	326:2	346:15 347:16	306:1 336:14,18
191:12 232:18	meet 212:2,11,16	356:4,8	monetary 238:9
269:3 294:12	349:18	millions 311:4	money 193:13
307:14 315:10	meeting 210:19	356:7	302:25 317:15
316:15	212:5,6,15 214:1	mind 242:5 317:20	319:19 342:8
mayer 168:21	214:22 351:12	mine 302:20	monitor 182:22,24
176:9	meetings 210:11	minor 202:9	183:3
mayerbrown.com	210:15,21,24	310:15	monitors 182:22
168:23	211:3,8,12,21	minute 227:13	182:24
mba 290:12	212:2	240:15 287:4	monopoly 207:7
320:10	memorized 336:4	318:10 340:16	monster 335:3
mcohen 169:5	memory 214:5	minutes 214:1,22	month 194:18
mdl 167:3 370:3	mentioned 194:11	215:3 222:12,13	197:12,13 199:17
mdsc 168:8	214:10 264:21	265:5 300:5	222:11,18 224:23
mean 177:21	328:5 331:7	323:16 325:10	285:23 321:10
182:1 209:1	menu 344:5,6	354:9 360:16	337:16 344:16,17
225:15 246:21	merger 293:16	365:16 366:25	344:19 358:3
252:6 266:17	303:10	367:3,4,8	monthly 194:17
289:3 291:14	message 246:16	miracle 197:6	221:25 223:6,8
292:1,3 295:3	247:10	342:20 344:7	257:13 258:15
308:7 311:11	met 212:11,24	miraculous 197:23	275:18,23 276:9
316:5 320:5,14	214:14 239:9,12	mis 170:16	277:24 280:4
322:19 324:6,9	315:10	mischaracterizat...	282:10 285:21
340:19 345:19	method 348:12	222:10	months 181:24
365:12	353:6	misspellings	182:1 183:8
meaning 236:17	michael 168:9	363:19	310:20
239:19 259:21	169:3 176:6	misused 278:16	mopping 303:24
means 193:10	315:10	mms 242:1,11,16	mops 304:2
197:13 224:12	mid 268:14 269:9	242:25 243:7,19	morale 232:4
260:2,3 261:6,14	270:9	243:25 244:4	morning 175:2
278:18 279:8	middle 235:12	297:7	176:17 249:2
282:21 283:17	246:1,3 281:24	mnemelka 168:12	289:11 336:19
309:2,7 310:21	mike 175:23	model 333:22	mornings 336:14
meant 319:3	289:10 356:12	moment 218:13	morse 190:12
336:24 352:23	milberg 168:16	277:12 280:21	moss 172:3
measurement	175:18,20	289:17 293:17	motion 364:23
193:4			365:1,21 366:10

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001331

HIGHLY CONFIDENTIAL

[motivate - notified]

Page 28

motivate 263:18	nature 333:22	311:6 312:4	news 192:16 193:2
motivated 333:7	353:22	314:17,23 317:14	193:12,21 194:3
motivation 298:6	near 207:7	322:12 323:6	197:18 241:3
motivations 194:3	nearly 179:3	324:25 325:4,15	252:13 255:6
236:21	190:15 191:15	327:12 328:25	256:13
motors 297:23	necessarily 189:22	329:11 330:2,5,25	nice 292:7 296:1
mouse 353:5	191:21 259:4	331:5 334:5	315:24
move 197:24	295:10 301:22	340:18 344:23	nicer 296:7
221:14 225:3	necessary 303:2	345:9,15 347:25	nifty 205:16
335:23	need 177:1 207:2	348:23 351:15	nigh 197:22
movement 261:12	219:19 225:17	353:1 354:3,11,18	342:19
moving 185:24	227:9 230:18	355:2,15,21 356:1	night 246:2,3,17
244:8 264:15	290:6 292:18	356:9,13,20 357:2	274:20 364:21
273:24	293:5,12 295:14	357:7,13 360:16	nine 324:15
mryan 168:23	295:22,22 296:1	361:18 362:6	nobody's 231:6
mullin 169:3	304:1,2 316:10	364:14 367:17	noise 321:13
176:7	326:17 327:8	never 178:21	nominally 339:13
multiple 361:3	340:7 365:23	218:12 230:16	non 332:1 341:22
multistep 220:23	366:7 367:12	248:22,24 257:5,6	nonsense 365:18
mumbling 232:15	needed 337:13	303:19 310:23	noon 337:1
myriad 313:4	needing 235:21	316:15 319:20	noontime 337:8
n	needs 245:16	329:17 340:5	nope 366:4
n 168:1,9 169:1	299:14 301:1,1	342:21 356:13	normal 251:25
175:1 214:11	302:22	nevertheless	261:11,11 270:23
n.w. 168:11,22	negotiating 199:12	331:13	294:12
nada 211:18,19,21	290:1	new 168:18,18	normally 212:2
212:2,25 214:14	neither 371:5	178:16,21 179:19	northern 167:1
naked 243:20,24	nemelka 168:9	179:25 180:24	175:7 370:1
263:13,14 279:13	170:5,6 175:23,23	181:4,14,16,18	notary 369:23
279:20,23 280:24	252:9 288:24	182:5,7,9,14 183:6	note 259:15 286:7
281:1,4	289:4,5,9,10,21	183:9,15 187:20	357:23
name 175:9 193:8	290:5,21 291:6,12	194:10,24,24	noted 369:13
193:11 208:3	291:21 292:12,16	223:2 239:15	notes 351:12,21
212:13 213:7	293:4,14 294:3,19	242:1,10 250:8	notice 310:19
214:13 232:21	295:2,9,22 296:2	275:2 280:17	noticed 286:16
257:5 315:4,11	296:18 297:13,20	286:1,1,1,1 309:25	notices 334:7
319:5 338:6 369:2	298:1,8,12,15,19	333:9,9 334:23,24	notification
369:19	299:10 300:1,14	336:2,5,11,21	219:21 260:7
named 168:7	301:5,16,20	337:5 343:23	notified 251:20,21
names 209:20	302:18 304:16	346:9 358:11	251:22,24
314:21 316:2	305:24 310:2		

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001332

HIGHLY CONFIDENTIAL

[notify - occurring]

Page 29

notify 219:25 242:18	numerous 314:13	267:21 268:12	340:17,18,24
notifying 220:1 283:23	o	269:11,15,25	342:5,7,17 344:23
november 171:3 172:7 184:15 238:7,25	o 175:1	270:14 271:23	345:14,15 346:3
number 188:4,12 188:23,24 193:5,5 199:4 205:8	oath 369:18	272:6,12 274:8	347:24,25 348:8
224:12,13 225:6	object 182:18	275:8 276:1,7	348:13,18,22,23
228:8,21 229:14	206:11 243:14	277:5 278:13,24	349:2,7,11,16,20
229:15,18 233:14	250:10 255:22	279:14,18 280:5	349:25 350:12,22
234:6 240:12	271:1 275:14	280:11,18,25	351:4,8,23,25
253:6 269:18	362:2 367:22	281:5,18 282:3,19	352:4,10,19,25
271:5 273:18	objection 178:7,13	283:21 284:19,21	353:1 354:2,3
276:18 278:22	179:4,15 180:6,14	285:3,18 286:11	355:11,18,24
280:10 282:20	180:20 181:5,10	286:19,25 287:17	356:18 357:4,9
285:21 291:17	181:22 182:2	287:24 288:4,12	358:17 359:23
292:24 296:8	186:1 187:3 189:7	290:3,18 292:21	360:21 361:1,11
297:11 305:14	189:11,19 191:10	293:7 294:11	362:14 363:15
323:12 326:16,24	191:18 192:2	295:16 297:9,15	367:1
335:14 342:1	195:24,25 196:1	297:22 298:3,11	objections 206:11
352:15 356:4,14	198:15,20 200:2	298:17,21 299:15	329:11
356:17 357:2	200:19,23 201:3	301:4,5,10,15,16	obligation 220:15
359:6,7 361:6,7	202:5,14,21	301:20 302:6,11	220:18
365:3	204:14,16 207:23	302:17,18 303:12	obligations 216:14
numbered 167:15	209:14,19 212:12	304:15,16,21,24	oblivious 313:9
324:14,15	213:21 215:4	305:5,23,24 310:1	observation 199:6
numbering 170:16	216:1,5 217:5	310:2,11 311:5,6	observe 353:13
170:19	218:2,21 219:13	311:21,23 312:3,4	obsolete 203:11
numbers 193:16	219:18 221:3	312:8 314:6,16,17	obviously 177:22
193:17 223:23,25	224:4,9,16,20	314:22,23 317:5	225:1 261:25
227:8 228:10,12	226:6,15,21,22	317:13,14 318:18	299:2,16 317:11
228:12,13 232:1	227:7 229:7,21	320:6 322:5,12,15	317:15 320:20
274:4 282:6	233:6,18,25	322:20 323:6	337:22 338:24
284:17 286:3,6	234:12,17 236:8	324:24,25 325:4,9	347:19 367:20
318:6,7 320:19,19	236:19 243:1,9	325:14,15 326:25	occasion 198:8
323:11	249:12 250:15,18	327:11,12,20,22	314:13
numerically	250:23 251:4	328:3,8,13,24,25	occur 180:22
237:23	253:25 255:13	329:10,20,24	194:10 211:3
	256:15 257:10,19	330:5,6,13,17,25	occurred 249:25
	258:17 260:18,23	331:4,5,11,16	257:14 262:9
	261:24 262:10,16	332:15,22 333:2	269:21 305:2
	263:15 264:8,23	333:13,19 334:4,5	308:13
	265:2,21 266:1,7	334:12,15,18	occurring 246:20
	266:15,22 267:10	339:11 340:2,11	342:18

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001333

HIGHLY CONFIDENTIAL

[occurs - overhead]

Page 30

occurs 197:6 217:14 220:13 280:1 284:2 309:12 342:25 oct 305:1 october 172:3 od 287:18 odd 339:15 ode 204:5,11,13,15 205:21,25 206:1 207:11 208:7 209:6 210:10,11 210:21 211:7,13 212:3,17,24 213:3 214:2,24 215:24 287:13 ode's 207:8 offer 199:9,11 offering 243:24 274:15 office 274:25 342:24 343:7 346:23 369:21 officer 214:21 229:12 370:17 offices 167:19 oh 285:8 316:21 328:1 338:14 345:3 356:10 ohio 274:25 okay 176:19 177:7 185:15 189:9 192:22 206:6 223:24,24 226:3 226:14,18 235:10 235:13,15 243:17 248:15 252:8 267:12 268:3 271:24 278:25 285:16 292:12 294:7 302:3	316:19,21 321:19 324:19 335:1 337:18 338:14 343:7 352:14 361:19 363:11 366:16 367:9 old 183:6 203:11 225:11 279:22 320:12 323:1 older 322:24 once 183:9 211:17 212:22 213:8 222:11 238:4,4 285:23 307:21 327:3 328:19 338:20 365:6 one's 324:7 ones 227:3 250:11 250:16 272:24 277:12 309:16 354:5 ongoing 203:20 310:10,12 311:11 onsite 275:17 315:17 333:15 opcode 335:13 336:3,23 opcodes 335:11,11 335:17,21,25 336:2,5,11,21 337:25 339:8 open 204:5 259:19 315:1 364:7 365:7 365:14 367:2,23 opened 260:16,21 261:16,22 283:25 opening 261:10,13 335:15 336:20 openly 233:2 operate 256:17 290:23 307:10,11	operated 231:8 299:7 operates 228:11 231:21 operating 203:18 203:19 231:12 258:6 operation 186:13 186:14 231:14 operational 328:7 operations 217:21 opinion 180:17 250:5,6,6 295:7,8 295:14,17 299:18 313:12 opportunities 258:2 opportunity 208:20 237:16 274:1 options 204:23 oral 167:8,12 370:9,17 orchestrated 201:4 order 193:21 197:11 210:14 261:10,16 265:19 265:24 266:5,21 267:3,9,11,15,16 267:16,20,23 268:3 270:5 283:20,22,24 292:25 293:2,10 295:15,20,23 311:25 312:15 313:5 327:6 335:16 336:20 365:19 ordering 258:11 258:13	orders 257:25 260:2 261:13 266:11,12 267:5 ordinary 235:8 246:4 257:21 288:10,16 organiza 239:7 organization 185:3 204:6 207:20 208:1 209:23 217:14,21 223:4 227:22 232:4,14,20 234:10 239:18,19 239:21 organizational 228:9 organizationally 227:18 organizations 359:2 oriented 303:14 original 342:20 347:14 originally 188:6 303:13 ought 209:4 323:2 outcome 371:10 outdo 252:9 outliers 313:13 outlook 321:6 outputted 220:5 outside 230:17 266:10 267:1 279:1 304:9 306:12 316:17 328:18 overall 222:4 228:9 249:8 overhead 178:15 178:24 227:24,25
--	--	---	---

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001334

HIGHLY CONFIDENTIAL

[overhead - percent]

Page 31

327:15 overloads 325:16 overrun 323:1 owned 184:23 185:4 215:18,19 293:24,24 363:4 owner 184:19 ownership 215:17 owns 313:20	285:12 286:4 332:20 333:25 351:14 357:23 362:11,18 369:3 371:1 paged 230:3 pages 252:12 364:14,15 paid 197:19 336:25 pain 242:18 pale 324:8 paperwork 343:7 paragraph 189:13 239:6,8 260:4 279:16 363:22 paramount 367:13 parcel 309:20 parentheses 300:21 park 274:25 parse 331:24 part 177:18 205:7 206:5 217:20 228:9 245:24 247:18 259:24 263:9,13 265:25 266:3,4 267:4,17 268:1 270:22 273:4 274:11 278:10,12 283:1,1 288:17 303:16 306:12 309:20 310:7 313:7 342:23,24 partially 269:6 participated 211:12 particular 188:11 191:12 201:24 208:21 214:5	234:14 238:16 249:6,17 254:11 257:14,16 263:11 269:6 282:20 283:10,11 284:4 285:23 292:25 319:13 354:22 355:19 359:9 particularly 193:25 232:2 233:8 299:22 parties 211:19 227:1 267:14 326:21 327:19 328:7 371:6 partner 208:25,25 parts 179:9 221:7 party 201:17,18 202:13 219:3 245:24 253:20,23 257:4 261:6 266:5 266:20 267:1,8,18 268:6 283:24 299:4 309:22 312:20 313:24 314:4 315:6 328:1 349:15 353:3 370:22 371:4 pass 333:8 passed 315:2 passing 258:16 password 315:14 315:19 patient 337:17 pause 214:8 pay 180:24 183:17 264:19 274:12 275:7 313:19 315:8 337:2 paying 344:21	payment 206:21 207:1 263:21 341:9,12,14,18 pays 216:13 pcs 182:19,20 304:11 peggy 168:15 175:17 265:4 300:7 360:3,9 pending 177:4 243:5 278:3 pennsylvania 168:17 169:4 penske 185:2 penultimate 352:16 people 179:19 183:3,23 188:4,12 193:4 194:8,9 203:14 208:1,8 209:15 212:3,14 212:16,17 213:5 230:18 231:4 238:18,19 246:3 248:22 249:1,13 249:16 250:19 263:18,23 264:17 299:20 304:9 313:19 316:1,24 316:25 319:10,19 321:12 333:16 334:24 336:14 339:7 343:18 345:17,18 perceive 249:2 perceived 248:23 percent 179:8 183:2 204:11 205:9 215:18,19 223:20 224:15 225:25 228:3
p p 168:1,1 169:1,1 175:1 p&l 223:16 p.a. 169:3 p.m. 167:16 247:6 247:12 265:11,12 265:14 287:7,8,9 325:24,25 326:2 366:18,19,21 368:3,4 pace 336:24 package 171:20 174:6,9 178:18,19 206:24 231:17 282:18 284:15 285:23 packets 273:24 pag 358:14,15,25 page 170:1 171:1 172:1 173:1 174:1 185:14,21 186:23 186:24 188:16 189:14 190:6,9 223:14 228:15,17 235:1,6,12 241:17 241:24 245:6,9 252:25 253:17 254:3 255:5 277:15,18 281:14 281:16,22,24 284:15,16 285:7,8			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001335

HIGHLY CONFIDENTIAL

[percent - preparation]

Page 32

271:9 272:8 337:16 percentage 179:9 205:7 226:23 271:7 285:4 perfect 220:25 248:13 perfectly 258:19 performing 237:20 period 233:22 251:15,19 254:4 277:8 367:5 permission 306:17 permitted 258:22 328:23 person 209:23 210:11,25 211:13 212:13,16,17 214:17 232:19,22 234:16 250:2 253:16 291:7,13 292:7 315:17 319:6 338:9,12,19 338:19 345:18,19 369:19 personal 264:16 319:9 321:8 personally 180:15 182:21 264:16 292:7 340:6 348:19 349:4 359:1 369:17 personnel 179:24 181:13 183:14 187:15,17,17 188:1 227:23 273:1,15 333:7 337:21,21 pertinent 339:12	phased 203:4 phil 324:22 354:4 phillips 168:16 175:18,21 philosophy 303:14 phone 210:18,25 211:1 213:4 291:3 pick 190:22 214:15 246:14 291:3 344:6 picture 197:18 pictures 246:14 piece 202:25 228:11 306:9 316:17 347:18 pieces 182:10 307:2 pile 259:19 317:16 ping 269:24 pitch 239:1 334:3 place 176:19 195:8 212:8 213:2 220:2 220:4 233:1 236:22 238:2 246:16,17 250:21 251:8 255:12 256:8 257:5 260:22 321:14 323:9 324:9 336:5 339:10 344:4 places 192:20 212:24 plaintiff 167:14 168:7 plaintiff's 184:1 201:9 213:12 221:18 228:15 230:3 234:20 237:16 238:24 241:2 244:21,25 248:1,3 252:5,10	254:17,21 256:22 256:23 257:1 259:6 262:23,24 268:20,25 269:1 271:16 276:17,20 281:13 284:11 288:7 289:14 293:14 300:15,16 318:5,7 332:8 357:22 plaintiffs 168:14 170:18,18 175:19 175:22,25 348:4 351:11 354:8 365:3,4 366:24 367:9 plan 201:4 planned 236:16,17 262:3 planning 208:2,7 plaque 238:17 plaza 168:17 please 175:15 176:12,25 177:2 242:10 255:2 345:3 359:19 362:21 pleased 189:21 303:18 363:19 plus 271:7,8 272:8 326:13 347:14 point 185:2 186:7 186:11 197:15 206:18 235:10 242:21 255:18 257:20 259:25 279:15 288:23 318:23 333:5 365:2 367:24 pointed 236:9	points 256:13 352:15 policies 330:12 349:10,19 350:19 policy 230:14 231:1 232:5 242:15 243:6 251:5 264:25 330:14 341:12,14 350:2 357:17 polishing 303:25 polite 292:8 312:6 pontis 214:23 poor 180:23 poorly 179:18,19 position 215:21 220:9,23 232:15 251:12 possibility 355:13 possible 264:11 277:1 post 315:24 posted 316:2 posture 344:10 potential 205:20 206:24 209:5 264:14 potentially 264:16 354:25 power 272:20 294:21 practice 216:22 217:3,4,8 prayer 345:3 predicting 320:15 prefer 299:22 preliminary 296:24 preparation 351:21
--	---	--	--

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001336

HIGHLY CONFIDENTIAL

[prepared - prone]

Page 33

<p>prepared 222:6 223:5 317:22</p> <p>prepares 223:12</p> <p>present 169:6 175:10,11 211:19</p> <p>president 169:8 186:17 208:5 339:13</p> <p>presidents 222:7</p> <p>press 206:23</p> <p>pressure 197:3 292:4</p> <p>prestige 190:11</p> <p>prestigious 238:23</p> <p>presume 202:6,18 240:10 255:25 262:7</p> <p>pretty 182:10 246:8,15 262:12 311:8 325:18 334:25,25 357:5 363:3,20</p> <p>prevent 257:7 308:23 321:18</p> <p>prevention 308:10</p> <p>previous 194:11 206:3 225:7,23 259:15 284:20 303:7</p> <p>previously 187:14 218:5,8 236:10 248:11 281:13</p> <p>price 193:11 194:13 206:21 258:21,23 270:23 270:25 271:4,22 271:25 272:1,4 283:13 347:14</p> <p>prices 283:18</p> <p>pricing 268:9 269:10</p>	<p>primarily 186:6 256:16</p> <p>principal 179:18 208:23</p> <p>principally 208:1 237:24</p> <p>print 235:13 328:16 331:19,20 331:20,21 332:3</p> <p>printed 328:16 331:24</p> <p>printers 182:7,9,9 182:11,12,14</p> <p>prior 200:12 220:21 278:14,25 298:25</p> <p>privacy 316:24,25</p> <p>privately 184:23 362:12,23 363:4</p> <p>privileged 316:20 317:4</p> <p>prize 238:14,16</p> <p>probably 211:5 216:6 222:9,11 228:2 256:5 263:8 274:1 286:15,16 286:22 302:19 305:6 309:8 311:8 311:8,25 322:25 323:23 339:2,6,19 350:13 354:4 357:11</p> <p>problem 187:15 190:25 194:1 269:21 279:12 280:13,22 281:2 306:25 307:9 312:9</p> <p>problems 180:25 338:22</p>	<p>procedure 167:21</p> <p>procedures 233:12</p> <p>proceed 176:12 209:4,4,9 241:6 336:23 367:8</p> <p>proceeding 371:7</p> <p>process 181:12,17 183:19,22 186:8 199:13 200:10 204:18 207:5,7,8 220:3 244:6 248:13 249:8 260:9 267:6 278:9 279:25 312:19 317:25 326:10 330:8 331:17 333:5 335:9 336:20 342:25 343:18,25 344:8</p> <p>processes 204:3</p> <p>produce 200:13 365:4</p> <p>produced 167:13 195:7 364:12,23</p> <p>producer 196:20 342:2</p> <p>produces 197:8</p> <p>producing 342:16 364:24</p> <p>product 207:6 208:2,6 223:2,16 243:24 244:1 258:3,7,21 263:10 263:11 265:19,22 274:15,22 278:1 278:15 279:13,20 279:21,22,22,23 280:21 293:1,2 295:18 299:1</p> <p>productivity 183:2 228:5</p>	<p>products 190:3 278:11 295:11</p> <p>profit 193:17,17 196:20 197:12 227:8 228:12,13 231:20,25 232:3 342:2,16 343:16 344:14,17 348:1</p> <p>profitability 228:8 230:15,22,25 232:9,15,19</p> <p>profitable 190:4 227:5,12,16 231:5 232:6,17,25 234:11</p> <p>profits 197:9,16 233:2 347:23</p> <p>program 260:11 276:5 310:4 348:12</p> <p>programmers 309:22 346:25</p> <p>programming 307:22 310:17 332:5,6</p> <p>programs 221:12 331:24 336:25</p> <p>prohibit 341:1</p> <p>prohibited 258:18</p> <p>prohibition 232:9</p> <p>project 187:1,9,21 201:4</p> <p>projects 212:21 223:2 286:1</p> <p>promise 337:15 340:4,9</p> <p>promised 338:17 340:4</p> <p>promptly 194:10</p> <p>prone 196:2</p>
---	---	---	---

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001337

HIGHLY CONFIDENTIAL

[proof - rci]

Page 34

proof 207:2	pulled 259:19	question 176:22	quote 347:11
properly 181:12	pulling 298:9,15	176:23 177:1,3,4	353:19
194:9 295:15	pumps 304:2	191:19 197:25	quoted 239:16
proposal 338:25	punctuation	198:3 203:13	quotes 193:20
prospect 204:19	189:23 363:20	206:12,13 213:13	quotient 187:24
205:3,14	punish 338:23	218:24 219:23	r
prospective 298:6	purchase 194:13	236:5 243:5,12,13	r 168:1 169:1
protectant 343:13	347:14	266:14 268:19	175:1 214:11
protection 309:25	purpose 222:3	270:8 277:17	r&r 214:22
343:10	264:3 335:14	278:3,8,10 285:1	racing 186:11,13
protocol 365:19	purposes 369:20	288:9 289:2	338:8 339:18
proved 369:18	pursuant 167:20	291:16 294:4,5,6	rahal 358:14,15
provide 219:2	370:20	294:21 326:6	359:5
292:25 327:19	pursue 367:12	333:20 339:12	raise 282:17
328:12	put 176:18 198:24	345:17 354:13	raised 269:10
provider 221:2	203:16 215:1	362:20 364:9	ran 346:23
260:10 279:4,24	225:14 240:3	questioning	randall 322:3,22
280:8 300:21	250:21 251:8	332:10 352:22	randolph 322:10
312:20,21 332:25	255:12 280:24	360:14,15	rang 291:3
providers 217:23	281:3 283:12	questions 235:1	rank 192:25
221:5 300:22	286:24 292:12	241:16 288:25	ranked 192:17
301:3,9 330:20	296:9 308:22	289:12 300:1,3	343:17
provides 222:23	324:16,17 326:21	301:23,25 302:9	ranking 193:3,9
274:17 275:1	331:25 335:25	303:7 305:9,17	193:12,21 194:3
298:5	345:10 346:23	351:13 357:19	rarely 199:8
providing 258:5	347:5 352:7,17	363:12 364:4,10	211:14
291:23	355:3 365:1 367:3	365:16 367:18	rate 205:3 206:18
provisions 167:21	pwdgworth	quickie 246:16	306:13,20
public 188:24	168:18	quickly 181:9,15	rbdr 274:16,22
191:12 231:9	q	197:14	275:12 276:5
305:13 339:24	qualified 357:11	quieted 254:12,15	rci 202:18 203:14
369:23	qualifies 315:4	quit 216:24	203:16 223:19
publicity 319:23	quality 337:21	quite 178:23 179:8	224:2,22 225:6,19
publicly 185:4	quarter 211:10,10	188:14 203:2	226:4,19 227:2,5,8
188:17,22 189:1	211:11 272:4	223:22 238:2	227:11,15 228:8
231:10 363:7	quarterly 211:6,7	252:12 253:6	230:16 232:10,20
publish 258:23	211:9	254:22 261:7	232:24 233:4,8,16
283:22	quenched 338:4	263:1 275:9	234:10 239:15
published 231:11	query 202:24,24	320:12 359:4	257:21 259:24
pull 205:14,14	203:4,7,7,8 323:14	quota 280:16,24	260:9,11 261:2,3
298:20 324:4		281:3	261:11,11 262:1,4

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001338

HIGHLY CONFIDENTIAL

[rci - referred]

Page 35

268:11 269:10,18 272:10,16 273:1,4 273:13,16 274:7 284:17,18,24 285:14 292:18 293:5 294:23 295:2,3,14 299:3 302:2,9,10 326:16 329:17 354:14 rdr 167:17 371:17 reach 278:1 279:21,22 react 302:23 read 198:16,18,22 225:15 234:24 255:8 263:8 289:17 294:15 307:6 310:4 320:1 358:6,7 363:22 369:12 readily 264:13 real 258:1 259:22 260:16,21 261:9 261:13,16,22 265:19,23 266:5 266:20 267:9 282:21 283:19 284:2 337:22 reality 231:23 realize 227:19 235:23 realized 236:6 338:17 really 189:3 192:5 198:22 203:1 224:11 233:21 238:1 254:22 261:7 276:21 283:12 284:1 285:22 290:14,22 294:23 295:8	297:23,24 317:23 319:15 320:24 325:16 327:8 331:17 332:4 334:6,6 336:23 337:22 338:14 340:7 350:2 359:8 359:8 365:12 reason 179:18 197:4,8 202:3,7 213:25 215:2 217:18 222:12 227:17 228:7 229:9 230:21 231:14 232:8 233:7 236:10 244:5 249:21 259:18 264:12 299:18 308:21 335:22 346:14,14 346:16 369:3 reasons 194:4 236:13 247:10 256:16,17 364:7 364:16 371:1 rec 311:17 recall 192:8 207:15 208:4 213:1,24 234:15 242:5 250:20,24 251:1,14 262:12 262:15 263:6,16 264:9 284:9 292:19 301:24 318:20 322:4 332:10 351:16 356:5 358:2,4 362:8 receipt 370:24 receivable 220:9	receive 202:4 219:21 221:25 238:21 239:4,23 241:21 252:18 254:24 256:25 259:12 263:3 271:10,18 277:3,7 288:10,18 received 213:19 218:16 238:25 248:5 250:16 251:15 301:24 receiving 306:1 recess 210:5 237:7 240:19 265:12 287:8 325:25 366:19 recipient 328:22 recipients 278:22 280:10 reciprocal 217:4,8 217:22,25 recognize 242:3 recognized 294:8 recollection 255:10 263:7 recommendation 280:24 299:11 recommending 297:5 recompense 236:14,24 record 167:22 175:3,16 184:4 191:13 210:4,7 225:14 237:4,6,10 240:18,20 241:4,5 241:7 265:11,15 270:3 287:4,5,6,10 307:24 309:4 320:2 323:4	324:17 325:19,24 326:2 342:13,14 364:3 366:8,9,11 366:16,17,20,22 367:25 368:3 370:18 371:9 recorded 175:4 records 228:1,2 306:13,18,19,21 307:3,7,13,15 309:14 319:2 320:20 331:25 346:13 recover 180:5 187:11 188:9 192:10 194:7 197:13 recovered 192:6 recovering 233:13 recovery 275:1 recurring 225:6 225:19 284:18,24 284:24 285:14,15 285:15 red 204:25 reduce 278:22 reduced 327:1 reed 322:3,22 reed's 322:10 refer 229:1 253:11 273:22 reference 234:25 253:24 256:9 259:18 269:6 references 256:2 256:13,16 referencing 256:2 referred 219:9 226:7 292:22 361:24
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Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001339

HIGHLY CONFIDENTIAL

[referring - responding]

Page 36

referring 236:1 253:17	221:1 287:13,14 287:14,19,22 301:14	removed 247:9 renewal 201:6 repair 257:25 260:2 261:9,13,16 265:19,24 266:5,9 266:11,12,21 267:3,5,9,11,15,16 267:16,20,23 268:3 272:21 275:17 283:20,22 283:24 327:6 335:15 336:20 341:5	representative 168:8 representing 175:21,24 176:2,7 192:23 represents 220:15 256:4 reputation 297:24 303:20 request 258:10 260:13 requested 286:24 370:22 371:3 requests 283:2 require 293:1 294:23 348:11 required 283:12 313:5,10 339:13 requirement 183:3 276:11 requires 257:22 302:24 research 245:24 274:25 reservation 327:7 reserve 288:24 289:2,3 300:2 360:8 364:5 367:11 resisted 337:24 resolution 280:20 resources 313:8 323:22 respect 305:21 331:9 354:18 356:4,5 respond 242:13 280:2 364:11 responded 218:16 responding 218:23 253:3
reflect 170:20 201:19 271:21 reflecting 356:21 refresh 255:10 refuse 179:19 regard 193:21 195:3,13 199:1 200:14 232:24 249:10 251:7 264:5 266:20 268:9,11 269:22 271:22 272:16 274:7 286:17 363:11 regarding 210:11 212:17 218:1 219:17 233:10 254:11 255:19 regards 233:8 register 249:14 registered 319:5 regrowing 354:6 regular 288:19 reining 244:15 relate 241:17 280:21 290:11 326:7 related 300:19 305:18 350:8,18 371:6 relates 199:13 233:16 277:25 278:15 293:20 relating 322:3 relation 230:16 relationship 215:7 215:10 216:17,22 217:2,22,25 219:2 219:5,9,11,16,20	relationships 215:25 216:4 286:2 287:16 288:2 297:3 299:12 300:20 301:2,9 relative 371:8 relatively 331:18 relearn 335:25 released 242:14 244:19 251:17 255:8 relies 295:20 religiously 232:5 remainder 300:2 remaining 220:15 220:18 288:24 289:2,3 remarkable 253:15,18 remember 184:16 201:24 202:8,10 208:11 209:7,20 213:7 227:21 232:21 235:19 240:5,8 242:8,23 267:2 319:17 329:4 332:20 342:3 345:11 357:18 363:18 reminder 297:16 remindertrax 297:14 remote 274:18 333:15 remotely 274:23 324:11	repeat 181:15 273:5 287:18 replacement 272:21 275:17 replicate 207:8 repman 297:20,23 report 221:22 222:3,11,25 224:11 225:1 247:2 322:3,9 323:3,13,18 324:3 346:10 reported 167:18 reporter 175:11 176:11 370:14 reporter's 170:9 370:8 reporters 304:19 reporting 202:25 203:3 328:6,14 329:16 reports 200:13 221:6,9,11,25 222:19 248:22 249:2 253:14 315:15 322:10 323:18 324:1 331:19	

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001340

HIGHLY CONFIDENTIAL

[response - reynolds]

Page 37

response 201:20	285:13,14,15	reymdl00061988	reymdl00583889
206:17 219:8	342:2,15	174:13	174:17
235:7 299:11	revenues 226:20	reymdl00068321	reymdl00583890
305:16 322:17	reverserisk 292:23	172:21	174:17
323:2 364:25	293:9,11 295:18	reymdl00068325	reymdl00590725
367:19	350:2	172:21	172:4
responsibilities	review 184:6	reymdl00071272	reymdl00590727
312:13	198:12 201:15	173:4	172:4
responsibility	218:10 230:5	reymdl00071273	reymdl00611282
274:23 283:1	235:4 237:17	173:4	171:7
responsible	241:16,19 242:2	reymdl00238490	reymdl00611284
207:12 308:3	242:10 244:25	173:7	171:7
312:17,22	248:3 252:16	reymdl00238491	reymdl00661495
rest 239:20 255:15	256:23 262:24	173:7	172:7
363:4	276:20 293:17	reymdl00238492	reymdl00661497
restate 177:1	296:15 318:10	173:11	172:7
restatement	reviewed 198:18	reymdl00238493	reymdl00719700
266:23	252:10 254:20	173:11	171:21
restore 309:9	259:10 269:1	reymdl00244021	reymdl00719787
restricted 255:20	361:24	171:11 184:5	171:21
restriction 255:7	reviewing 184:16	reymdl00244025	reymdl00722459
restrictions 314:4	revolves 211:18	171:11	174:10
result 191:6 227:3	reward 237:20	reymdl00263055	reymdl00722550
232:5 298:23	rewards 237:23	218:10	174:10
329:17 336:13	rework 341:24	reymdl00263065	reymdl00723521
346:17	reycid0074420	173:14	174:7
resulting 278:16	173:18	reymdl00263066	reymdl00723612
results 197:22	reycid0074422	173:14	174:7
retention 310:22	173:18	reymdl00263304	reyn 275:7
retired 339:15	reymdl00045179	171:4	reynolds 169:8,8
return 196:10	174:20	reymdl00333091	171:20,20 174:6,6
returned 370:24	reymdl00045348	172:11 241:15	174:9,9 176:2,3,7
370:25	171:14 201:13	reymdl00333092	176:8 177:9,14,15
reveal 317:4	reymdl00045445	172:11	177:20 184:21,25
revenue 223:19	172:18	reymdl00470609	185:24 188:16,25
224:19 225:6,20	reymdl00045556	173:21	190:8 195:4 196:9
226:4 228:17,23	171:24 230:4	reymdl00503332	196:9 197:20
228:25 229:6	reymdl00050127	174:4 276:18	199:1,9,22,25
233:4,8,16 234:6	172:14	reymdl00503335	200:8,9,16,18,25
235:22 236:6,13	reymdl00061987	174:4	204:8,11 207:12
236:18 284:18,24	174:13		208:6,16 210:11

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001341

HIGHLY CONFIDENTIAL

[reynolds - salesperson]

Page 38

212:16 214:23	rice 320:9	ro's 260:2,2,21	315:14 322:10,10
215:6,11,15,19,24	rick 184:15 338:6	robert 167:8,12	323:3,15 324:3
216:3,11 217:8,10	338:18 339:16,17	168:15 170:4	328:16 331:20,24
219:12,17 220:19	340:7	171:3,13,23 172:3	344:12 347:4
221:1,23 222:3,15	rick's 338:7,7	172:13,17,20	running 186:12
222:20 223:6,11	rid 203:8	173:3,6,10,17,20	222:24 253:15
229:5 231:2,8	right 185:14 188:9	174:12,19 175:4	274:20 306:3,4,11
232:6 233:23	198:8 202:17	176:13 237:2	322:17 325:18
237:19 243:7	213:7 238:20	318:13 368:2	runs 322:16
245:20 246:25	251:20 252:15	369:2,12,14,17	323:15
247:15 250:4,7	260:17 272:24	370:9,16	rust 343:12
251:15,17 255:11	278:3 284:1 289:4	role 217:17 239:13	rwallner 168:19
257:7 260:10,10	289:5 290:2,13,25	239:16	ryan 168:21 176:9
264:5 265:18,22	291:7,13 293:6	rollbacks 249:5	176:9 182:18
266:4,21,21	294:23,24 295:4,8	ron 171:17 174:16	206:10 216:1
267:25 268:2,8,10	295:9 296:2,10	184:16 185:6	218:21 226:22
269:9 272:10	297:13 298:10	208:4 209:23	243:14 250:10
274:6,12,12 275:7	300:6,16 301:22	212:14 293:15	271:1
275:13 278:11,15	304:6 306:16	345:18 361:19	
278:17,21 279:12	311:19 316:24	363:13	s
279:13 280:9	322:2 324:12	ronald 170:16	s 167:14 168:1
287:15 290:1	325:6 330:19	171:10	169:1 175:1 294:5
293:6 295:4	331:10 332:16	room 353:20	sadly 241:7
296:22 297:3,7,8	336:18 337:6	367:8	salary 238:21
297:10,14,21	341:20 342:6	ros 261:22	273:4,16
298:2,4,9,16,19,20	345:8 348:2 352:6	roughly 195:13	salemen's 305:9
301:13,14 302:5	354:20 355:2,6,10	routinely 229:14	sales 178:10 179:7
302:13,15 303:11	355:17 357:2,3,8	row 324:14	190:16 191:15
303:11,23 304:13	357:13 358:20	rows 324:14	192:9,25 193:16
304:14 305:4,4	362:24	rude 309:21	193:21 197:10
306:10,14 313:20	rights 258:20	rule 370:20	205:7,10 206:21
314:8,20 315:3	367:11	ruled 364:23	222:20 224:3,7,7
316:11 325:7,13	ring 201:25	rules 167:21	224:12 228:12
327:18,18 328:2,6	rise 234:13	176:18,20	255:6 256:12
329:23 330:12,22	rising 337:9	ruling 364:25	259:3 261:1 305:9
331:8,14 332:19	risk 178:8,9,9,15	rulon 171:6	332:18 342:25
333:1,11 340:16	178:24 187:23	run 221:6,12	347:1 351:12
341:20,22 348:7,7	188:11	222:9 231:2	352:1,2 363:17,25
349:14 350:8,18	risks 178:6,11	248:22 249:2	salesman's 205:4
350:25 351:2,22	186:24 187:2,9,10	267:6 282:24	salespeople 189:22
356:4,16 358:11	314:20	291:18 309:10	salesperson
			205:13 206:18

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001342

HIGHLY CONFIDENTIAL

[salesperson - send]

Page 39

263:20	scale 187:8 347:6	screenshots	see 185:8,11,19
salespersons	scenes 239:23	252:13	188:18 190:8,12
351:21	schaef 296:20	se 353:19	190:18 192:6,13
san 212:1	schaefer 171:13	sea 300:8	192:20 199:5
sat 305:14 308:15	171:23 172:3,13	seal 369:21	200:6,7,12 205:6
308:21	172:17,21 173:3,6	searching 242:5	219:3 222:17
satisfactorily	173:17,20 174:19	second 182:22,22	223:16,20,21,24
330:9	201:20 204:1	183:3 185:4	224:3,19,21 225:8
saturday 247:6	229:19 230:10,20	211:10 235:1,6	225:23 226:1,2
save 326:13	235:7,7,16 236:4	239:6 241:17,24	228:19 232:13
335:15	238:25 239:7	254:3 255:5 290:5	235:24 249:25
savvy 359:8	240:10 251:24	335:2 337:7	252:9 253:20
saw 185:13 197:22	252:4 253:2 255:2	352:16 362:11,18	255:2 271:24
232:11,14 311:17	261:18 289:15	secondly 231:1	278:1 281:10
315:24 345:6	296:13 297:2	233:1 313:13	285:2,17 286:10
saying 193:1,20,24	357:24 358:9,22	secret 304:13	292:9 298:12,16
194:1 202:16	359:17	section 352:22	298:18 299:6
203:15 225:16	schaefer's 217:17	secure 302:14,15	300:21 322:11
227:15 246:6	232:14,20 234:10	security 233:11,11	324:13 352:8,12
261:5 277:22	240:4,7 273:4,16	237:1 239:14	352:18 357:24
280:3 306:2	299:11 300:19	245:10,19,19	360:20 361:16
308:10 337:10	schafer 173:10	246:24 247:1,5,9	364:21
344:10 357:18	174:12	247:15,19,21	seeing 224:5 245:4
359:19,20	schedule 211:4	248:8,18 249:6,8	285:4
says 188:8,16	212:20	249:11,17 250:8	seen 195:16 196:5
190:7 192:4	scheduled 322:9	250:17,21 251:2,6	196:6 200:4
213:17 224:5,18	323:8 324:1	251:8,16 253:1	213:13 218:12
228:17 229:8	scheduling 220:3	254:11 255:11	230:8 323:24
235:19,20,21	science 320:9	256:3,4,5,13	seesaw 353:16
239:7,8 241:23	scientific 199:7	260:12 290:8	sell 182:23 193:10
244:18 247:8	score 205:15	302:21,24 303:2	193:14 196:12,14
249:22 253:4	206:22	303:10,15,17,21	198:2 243:20
255:6 260:1,5	scott 169:7	304:3,25 305:3,10	244:1 271:5
272:7 279:12,19	scrapped 347:11	311:16,24 312:18	297:17 311:13
281:22 290:19	scratched 281:25	315:3,7 320:24	343:8
297:6 298:8	scratching 282:1	321:4,13 327:24	selling 341:22
312:15 313:24	screen 197:2	330:12,14 352:8	send 206:24
321:19 322:16	246:19 341:2	352:13,17,23	246:16,20 279:3
328:1 352:12	344:2 346:10	353:2,22,24 356:5	313:2 319:5 329:7
358:22	screens 341:2	357:17 358:2,11	331:21

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001343

HIGHLY CONFIDENTIAL

[sending - slowing]

Page 40

sending 280:7 318:22	279:24 280:7 297:16,17,18	shortly 345:9	simplest 312:24
sends 186:4	311:3 312:20,21	show 183:25 201:8	simply 198:1
senior 208:5 222:6	327:7 335:10,23	213:11 218:4	270:8 305:12
sense 312:25	336:1,22	221:17 222:19	317:16 326:15
sensible 342:11	services 190:11	228:14 230:2	342:10
sensitive 227:22	223:16 239:9,12	234:19 237:15	single 364:9
sent 198:12 201:21	286:8 297:4	241:1 244:21	sir 300:17 316:20
213:17 223:8	set 203:3 204:4	247:25 252:4	sis 325:7 353:25
277:13,14 320:1	221:16 296:10	254:16 256:21	sit 202:1 211:19
322:7 328:17	323:9 336:5	259:5 262:22	274:2 344:1
343:6	sets 187:16	263:19 268:20,24	351:16
sentence 185:9	seven 188:25	271:15 276:16	sitting 183:23
188:15 189:12	189:3 199:8,23	281:12 284:10	242:4
192:4 202:23	212:23 310:22,25	288:6	situation 188:11
290:5 297:6	365:8 367:22	shown 191:5,20	201:24 203:5
separate 273:23	shaken 214:15	showroom 263:19	204:2 208:19
september 171:7	shakes 343:4	298:13	263:25 304:3
171:10 184:9	shape 304:6 346:6	showroommagnet	307:20 309:10
322:8 334:1,2	shauna 167:17	263:9,13,16 264:1	310:15 319:13
series 246:14	175:11 370:13	264:6 298:1,13	320:17 326:7
322:2 331:24	371:17	shows 322:9 323:8	327:13 343:24
365:16	sheer 187:4,8	323:13	353:5 354:22
serious 187:1,9,20	sheppard 169:3	shut 306:24	355:4,5,12
254:23 278:20	176:6	sic 289:23	situations 178:17
server 272:19,20	sheppardmullin....	side 207:12 224:18	191:22 195:10
272:20,21,21	169:5	341:7 344:1	251:22 274:14
273:15 274:19,24	shocking 316:6	sign 324:2 334:10	345:2
275:2,5,16,25	shook 338:6	signature 170:8	six 212:23 284:23
276:3,8 306:10,12	shoot 308:6	369:1,13 370:21	285:7 300:4
306:14 318:22	shop 267:6	371:1,15	size 187:4 188:5
322:11,23,24,24	shopping 205:15	signed 184:16	262:17 294:16
325:17	short 199:17,19	205:13 226:13	sizeable 318:21
servers 182:5	210:5 237:7	340:12	sized 262:18
273:24 306:23	240:19 245:5	significant 190:16	skill 310:17
307:7	287:2,8 312:15	191:15	skipped 318:7
serves 320:17	320:3 321:2,6,11	signs 199:3	sky 324:5
service 259:22	325:25 366:19	silver 204:25	skype 213:4
265:19,22 267:4	shorten 335:17	similar 217:22	slight 185:7,11,17
267:18 268:2,8	shorthand 167:18	simple 288:9	slot 332:5
273:14 274:25	370:13	331:18 332:4,6	slowing 306:22
		334:25 338:19	

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001344

HIGHLY CONFIDENTIAL

[slowly - starting]

Page 41

slowly 306:3	solutions 324:23	speaking 267:20	staffs 359:3
small 221:9	solved 279:12	351:21	stamped 184:5
227:22 231:2	somebody 203:6	special 212:7	201:12 218:9
263:21 269:18	207:19 209:1	257:22 261:10	230:4 241:14
297:11 298:5	225:10 227:19	specific 213:2,16	stand 183:14
313:7 334:22	244:14 245:13	213:24 249:6,20	189:18 191:8
346:8 359:7	246:17 261:18	250:11 264:9	226:16,19 227:3
smaller 188:3	279:12 291:4	284:4 306:4 324:3	229:3 233:9,16
359:5	292:11 308:5,8	330:14 357:17	235:22 236:2,6,22
smart 317:25	310:24 326:10	359:10	330:8 344:24
337:14	350:10 353:6	specifically 190:1	348:15 361:13
smoothly 180:1	someday 239:23	190:2 207:15	363:13 367:4
snail's 336:24	somewhat 188:22	208:12 233:11,15	standard 182:12
snapshot 309:4,6	son 318:14 320:2,8	235:11,19 239:21	193:4
sniffed 296:7	355:3,8	245:22 254:1	standardize
software 178:17	soon 351:10	257:12 284:7	335:21
178:18,19 179:20	sophisticated	286:21	standardized
179:25 181:16	279:20 359:4	specified 216:23	182:20
187:20 194:10	sorry 177:12	specifies 257:11	standards 179:11
202:25 203:1,3,9	184:20 186:20	312:21	standing 299:25
203:10,12 213:6	195:24 209:20	speculative 357:7	standpoint 191:4
219:12 231:17,23	223:22 225:4,18	357:10	220:16,24 222:24
246:5,10,11,12	232:21 245:4	speech 312:7	230:15 231:2,13
257:23 258:6	250:24 266:2	353:21	244:11 261:1
261:14,15,20	272:14 285:10	spelling 189:21,23	273:9 296:5,5
266:11 267:25	316:20 329:2	spend 222:12,12	303:2,21 304:3
268:3 276:9,10	330:2 356:10,11	285:22 302:24	307:22 312:10
282:22,25 283:4	356:11 360:9	311:2 339:17	321:8 335:5
283:10 286:1	363:9	spending 303:24	341:23 342:9
295:19 297:19	sort 189:24 228:2	317:15	363:18
303:15 306:10	300:8 333:1 348:5	spent 356:5	start 177:7 241:24
307:6 308:25	353:20 359:11	spin 311:14	264:15 267:15
313:16,20,22,25	sounds 189:2	spite 193:19	285:6 290:14
314:7 315:3	227:20 315:23	split 365:8	319:11 334:23
331:24 333:9	source 180:21	spoke 208:7	347:17
335:6 339:4,4,5	295:20	209:12 287:15	started 176:17
347:18	space 325:3	spots 324:15	205:25 206:1
sold 193:5,6 223:1	speak 200:3	square 168:11	300:4 305:25
297:10 346:13	207:21 209:18	sta 222:22	306:1,7 317:15
solution 223:16	284:7	staff 183:8	starting 185:18
			239:14 304:11

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001345

HIGHLY CONFIDENTIAL

[starts - swear]

Page 42

starts 312:10	314:25 345:19	structure 187:18	suffered 236:11
stat 195:15 199:5	stick 198:19	335:13	367:6
state 167:18	300:14 342:9	stuff 308:13	suite 167:20 168:5
175:15 189:8	sticky 342:6	310:22 311:12	168:11 169:4
254:10 303:18	stock 186:11,12	340:13 344:6	175:13 278:11
369:15,23 370:14	stockholders	stupid 279:10	sum 283:15
stated 167:22	292:5	299:8,9 309:23	351:20
187:14 267:25	stole 346:10	styled 167:15	sumner 168:11
285:22 288:20	stop 236:23	stylus 197:2 341:7	super 211:25
357:16	279:25 280:7	344:4,11	superior 324:17
statement 180:8	308:23 347:7	subject 230:13	324:23 333:18,21
181:6 183:13	storage 274:12	236:25 242:1	supervise 272:22
187:2 188:20,21	275:6,24 276:13	245:15 252:25	support 232:3
189:6,8,15 190:21	store 253:13 276:6	269:23 293:16	249:14 253:7
190:24 191:8,25	276:11 323:11,12	296:13 353:2	282:10 305:8
200:6 208:14	323:12	367:10	333:16
230:19 249:19	stored 351:1,3	subscribed 369:19	suppose 177:23
267:12 288:8	stores 275:12	371:11	supposed 181:13
295:7	323:10	subsequent 220:22	235:23 241:10
statements 222:8	stories 339:3	269:8 281:7	301:21
234:2,4,8 300:19	story 255:18	subsidiaries 168:8	sure 178:17
367:10	309:21 334:21	substance 283:15	184:22,23 202:10
states 167:1 175:6	straightedge	299:20,21 351:20	208:11 215:21
358:12 370:1	225:10,24	substantial 262:13	224:5 240:10,11
stating 363:18	straightforward	264:14 292:24	247:17 249:3
statistical 191:4	198:3 261:7	substantially	272:23 280:12
statistics 191:11	strategy 354:25	348:15	311:18 324:1
191:20 222:23	strawsburg	subtly 290:24	327:1 358:7 363:3
stats 191:4	172:10 173:14	success 205:17	365:25
status 363:4	174:3 208:9,10	223:4 231:16	surprise 195:17,22
stay 241:5 276:24	214:25 218:24	337:20	surprised 205:9
340:9 365:14	219:8 257:16	successes 239:22	226:25 305:13
stayed 256:8	stray 244:10	239:25	356:2,3
staying 246:17	street 168:11,22	successful 207:9	surprising 192:5
stays 200:9	175:13	231:14 246:8	suspended 255:7
stealing 319:19	strike 197:24	sudden 347:17	255:11,20,21
step 220:9	221:14 225:3	sue 301:13	256:14
stepped 309:16	294:3	sued 299:18	suspension 255:4
steps 366:24	string 277:11	301:13 346:17	suspicious 246:2
steve 212:14 213:2	strong 347:20	suffer 281:2	swear 176:12
289:22 292:4,6			344:24

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001346

HIGHLY CONFIDENTIAL

[switch - terms]

Page 43

switch 177:10 330:22,24 331:2 331:14 334:16,17 334:19,20,21,22 340:1,3 345:8	236:24 292:25 297:12 304:11 306:8 335:6 370:4	348:6	telephone 167:17 213:6 214:12
switched 334:14	t	talked 209:16 257:6 273:6 292:17,20,20 316:9 327:16 328:11 330:19 336:9 338:2,5,15 361:5	telephonic 211:7 telephonically 168:15
switches 177:14 178:3,11,11 180:12,19 196:9	t 318:13	talking 210:15 226:9 242:6,6,8 245:6 256:13 291:8 305:21 311:3 316:10,22 316:23,24,25 326:5 338:8 341:25 342:14 346:1 358:10	tell 183:1 217:15 227:4 241:3 242:22 300:7 304:23 309:7,16 319:6 350:13 360:1 361:4 365:14
switching 180:4 181:2 332:25	tab 332:5	talks 190:3 202:24 248:21	telling 344:10
sworn 167:14 176:14 370:17 371:11	table 188:4 282:15 341:8 344:2	tape 341:11,13 tape 220:5,5,17 274:21	temporarily 203:22
sync 242:2,7,11	tadler 168:16 175:18,20	taught 187:18 290:15	temporary 249:5 249:9,16
synchronization 242:2,11 244:6	tag 243:20	tax 296:4	ten 188:24 200:4,5 366:25 367:2,4,8
synergies 294:18	take 177:2,3,5 180:4 183:8 187:11,11,21 188:8,13,14 210:2 220:2 231:17 240:14,15 241:8 257:3 260:1,20 261:21 263:20,23 276:22 298:7 303:5,5 309:2,4,5 317:19 318:10 321:13,20 325:20 333:8 344:25 345:5 364:9 365:5	team 217:17 223:11 237:25 238:1,10,13 239:1 239:2,2,9,12,17 240:4,4,7 338:17	tend 211:19 213:23
system 180:24 181:4,14,18 183:15 199:14 248:13 258:1 263:17 266:21 267:4,18 268:8 273:23 293:10,12 296:6,8,9 302:14 302:16 303:10,19 306:3 311:16 313:1,16,17,21 314:20 317:17,20 323:18 325:7 327:10,13,18 328:11 331:23 336:12 337:5 341:21 344:5,12 346:9 347:1,2 348:11 349:10 353:6,8	taken 167:14 371:8	teams 237:20,25 238:1	tens 281:9
systems 167:4 175:6 219:17 220:7 229:4	takes 193:10 194:6 196:25 205:5 220:3 228:2 254:2 272:22 274:22 302:20 344:4	technical 305:8 340:25 341:23	tenure 200:9,16 201:5
	talk 204:4 211:20 213:3 219:19 233:10 255:4,9 263:19 266:8 270:5,6 276:23 290:13,16,25 291:4,8,13 303:6 316:10,19 317:1 320:11 340:15	technicians 336:24 337:11	term 178:4 199:17 199:19,20 230:15 231:16 321:2,6,11
		techniques 196:24 248:12	terminals 347:4
		technology 325:13	terminate 297:3 299:11
		techs 337:8,18	terminated 258:11 258:14
			termination 258:10 334:7
			terms 177:24 267:14 271:3 274:4 301:2,25 302:1,16 311:1 320:18 342:1 350:7

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001347

HIGHLY CONFIDENTIAL

[terrible - titular]

Page 44

terrible 304:4	302:3 303:5	third 201:17,18	212:8,11 213:2
terry 249:22	313:11 320:11	202:13 211:11	214:5 215:15
test 263:18,20,24	327:5 337:6 343:9	219:3 223:23,24	216:9 218:10
298:7 367:7	343:9 345:24	227:1 245:24	220:13 223:19
testified 176:14	think 177:23	253:23 257:4	224:19 228:1
219:6 221:22	180:7,21 181:23	261:6 266:4,5,19	230:5 233:22
248:11 302:4	182:21 183:12	267:1,8,14,18	237:6,9 239:14,16
351:20 354:12	186:6 188:21,23	268:6 283:23	240:17 245:21
356:1	188:24 189:8	299:4 309:22	247:11 249:7
testify 367:15	190:22 191:19	312:20 313:24	251:15,17,19
testimony 356:6	196:19 204:17	314:4 315:6	255:7,25 258:1
370:18	206:13 207:18	326:21 327:19,25	259:21,22 260:16
tests 333:8	209:21 210:14	328:7 349:15	260:21 261:9,13
texas 167:18,20	213:1,5 214:13,20	353:3	261:16,22 262:24
168:5 175:14	216:2 217:18,19	thought 189:25	265:11,14,19,23
370:14	218:5 226:23	229:22 269:7	266:5,20 267:9
thank 237:2	227:2 228:16	308:22	268:13 270:3
241:13 265:9	231:22,25 240:6	thousands 281:10	277:8 280:21
266:24 284:22	245:12,12 252:14	308:20 311:3	281:10 282:21,24
289:21 300:6	256:4 264:13	three 181:24 182:1	283:8,19 284:2
354:7	266:16 273:18	211:6 214:6 262:9	285:13,15 287:9
thanks 225:24	274:2 277:14	286:5,7 320:3	288:24 289:3,3,25
300:3	280:3 283:7	324:16 335:14	300:2 305:1,7,9
theoretical 273:9	286:15,21 288:24	365:16	309:11 320:16
therefor 371:2	292:3,4,22 294:3	throat 365:17	323:2 324:3 325:8
theron 171:3	294:12,20 298:22	throw 229:13	325:11,24 335:15
176:13	299:19,21 300:10	307:7	336:8 339:18
thing 187:5 189:24	304:2 310:22	throwing 279:24	345:3 350:5,14
221:13 228:2,4	314:7 315:4	291:23	354:7 359:14
238:20 261:10	317:20 318:5	thrown 232:1	360:4,6,8 364:2,3
278:14 299:9	319:14,21,22,23	thumb 221:9	365:15 367:5
316:13 334:6	320:24 324:20,22	331:22	timeliest 258:2
337:15,19 347:12	326:6 327:2 329:3	thumbed 286:15	timelines 269:5
353:20 354:25	333:20 337:3	tight 248:19 249:3	times 180:9 203:6
359:12	339:23 342:9,12	303:20	211:6,15 212:23
things 196:6 221:6	342:19 357:5	tighten 193:13	273:6 322:18
231:22 236:14	361:4 363:11,18	time 177:2 185:2	328:6 344:18
245:25 248:19	366:5	185:23 186:7,12	tire 343:10
273:19 274:4	thinker 321:12	198:23 201:6	title 186:15
278:7 290:24	thinking 329:9,14	202:17 203:18,23	titular 186:9
291:14,18 299:7,8		209:25 210:3,6	

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001348

HIGHLY CONFIDENTIAL

[today - understand]

Page 45

today 170:16 175:2 176:20 177:7 199:3 287:15,23 295:12 295:18 355:21 361:16,21 367:10 367:15,16 today's 368:2 todd 168:10 told 291:6,9 304:25 305:19 347:1 360:10 tom 213:7 242:13 tommy 174:3 tomorrow 216:25 top 190:7,9 191:1 223:15,17 258:8 260:1 264:1 272:24 281:22 284:24 285:6,8 303:3 322:7 337:10 351:21 357:23 topic 177:8 327:16 topical 363:18 topics 360:6,7 total 220:15 286:9 305:14 311:24 352:5 361:6 totally 303:20 toyota 335:3 track 177:9,15,19 177:25,25 200:8 228:11 229:14 230:22,24 233:16 255:4,9 272:10 296:4 328:20 tracked 228:21 tracking 308:1 tracks 188:16,25	trade 343:3 traffic 278:18 trained 188:13 training 187:14 188:1 trampling 306:17 trans 197:9 transact 307:12 transacted 307:17 transaction 197:10 205:20 206:20 268:10 269:14,23 270:2,9 270:12,15,18,21 271:22,25 294:13 326:8,15,23 344:3 344:14 346:16 transactional 264:2 transactions 197:12 205:10 273:21 308:1 309:13,18 310:6,8 326:24 327:3 344:16 transcript 311:17 370:17,25 transferred 183:5 183:10 336:6 transmit 328:18 transmitted 278:19 318:24 trashed 306:21 treat 350:10 tremendous 335:16 tried 200:15,18 292:8 333:5 trim 204:22 trip 238:12,17	trouble 202:17 true 189:9 190:23 191:5,7,7,21 259:4 282:5 286:22 337:10 369:13 370:18 truthful 184:11 218:19 252:23 try 184:11 193:14 246:22 252:23 269:19 276:24 277:6,12 310:21 333:22 361:18,20 trying 185:13 186:3,18 206:15 242:21 252:9 321:18 358:12 turn 216:14 246:8 284:16 333:25 turned 290:16 turnover 179:2,6,8 179:10,13 180:12 180:16 190:18 191:1,17 209:22 twice 212:22 238:3 two 179:1 181:21 181:24 182:1,24 187:6,21 190:17 191:16 194:7 212:13 226:11 243:17 252:13 254:9,9 255:19 256:2,4,13 304:1 324:16 325:10 335:13 349:19 350:10,18 360:16 361:5 365:9,16 type 203:11,11 204:21 206:20 221:22 222:15 268:5,7 291:18	292:6 types 205:1 290:12 typewritten 281:25 typical 182:13 196:23 197:11 336:18 344:15 typically 182:9 193:5 199:7 203:13 211:1,18 219:21 323:25 335:13 342:23 344:13 typing 335:15
u			
u.s. 246:21 ucs 303:16 304:13 314:7 uh 300:23 345:12 ultimate 270:24 ultimately 251:9 253:3 353:13 unable 305:18 353:8 367:7 unattached 322:9 unattended 324:11 unaware 363:5 undercoating 343:14 undercoats 343:14 underneath 190:10 258:22 understand 176:23,25 177:12 211:25 222:4 230:18 231:4,21 239:19 245:8 248:25 266:17 273:8 316:10 321:19 337:18			

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001349

HIGHLY CONFIDENTIAL

[understand - war]

Page 46

350:1 358:7,12 365:5 367:23 understanding 215:12,20 275:9 281:1 367:9 understands 204:1 understood 248:24 350:5 unequivocally 348:9 unfair 326:19 unfortunately 309:10 336:8 343:16 367:7 unhappy 320:16 322:23 334:6 unique 335:11 uniquely 357:11 unit 194:14 united 167:1 175:6 370:1 universal 182:10 university 320:9 unknowledgeable 316:8 unlimited 313:23 366:3,4 unprintable 312:5 unprofitable 232:17 unsatisfactory 180:17 unsolicited 291:2 unusual 315:16 unwritten 216:20 update 269:20 327:6,7 updates 255:7 updating 266:12 upgrade 185:18 258:2	upset 253:6 279:4 upshot 336:9 usage 203:9 253:20,23 use 178:4 195:18 196:15 203:7 227:23,23 246:4 248:12 264:6,11 275:12 276:4 293:2 297:11,18 312:19 313:25 314:4 324:11 329:15,15 333:9 340:22 354:19 user 197:1 323:8 330:11 users 182:22 329:4 uses 267:5 293:9 usual 180:16 usually 211:24 utilize 293:11 utilizing 264:1 uttered 230:16	vehicle 197:10 204:21 205:20 221:7 vehicles 193:6 vendor 168:8 221:10 257:4,8 259:1 vendors 257:7 268:11 269:23 270:13 348:11 venture 204:8 207:11,21 208:17 215:11 verbally 341:17 verified 220:10 367:6 veritext 170:19 175:10,12 versus 224:8,23 225:22 309:12 vice 169:8 208:5 222:7 victory 347:11 videographer 169:9 175:2,10 176:11 210:3,6 237:5,8 240:17,20 265:10,13 287:6,9 325:23 326:1 366:17,20 368:1 videotaped 167:8 167:12 370:9 violation 232:12 232:13 313:18 vision 225:11 visit 204:24 344:25 vol 167:8 volume 167:13 370:11	voucher 298:6 vps 352:1,2 w w 353:20 wailing 337:12 wait 227:13 290:7 waiting 236:5 wake 319:15 walk 204:23 310:18 walked 338:4 wall 324:10 wallner 168:15 want 183:2 193:8 198:16 202:16 203:8,9,10,16 204:4 233:15 243:25 246:7,25 255:17 264:17 282:23 283:25 284:1 287:3 288:6 290:14,22 291:7 304:10 309:12 318:25 324:3,18 327:6 333:23,24 341:8,15 343:1 344:6 347:22 348:5 353:3 364:9 wanted 177:7 245:20 290:16,21 290:25 291:13 311:18 315:16 329:7 336:7 339:17,23,23 340:22 358:3 wanting 290:12 wants 291:4 321:2 321:3,3 359:17 war 353:17,19,20 353:24
	v vain 320:18 valid 249:15 valuable 242:17 243:8 value 343:3 variable 333:6 variance 223:20 variants 230:16 varies 183:12 various 330:11 vastly 304:7 320:20 vault 274:21 vaulted 311:12 vauto 294:22 295:22 296:6,9		

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001350

HIGHLY CONFIDENTIAL

[warned - willing]

Page 47

warned 343:18	183:4,19,25 184:4	261:21 262:4,14	342:1,5,7,17
warning 341:5	184:8 186:3	262:22 263:25	345:14 346:3
warranties 343:10	187:10,25 188:15	265:1,6,8,17,24	347:24 348:8,13
wars 352:8,17,23	189:10,16 190:6	266:2,13,19,24	348:18,22 349:2,7
washington	191:14,24 192:4	267:19 268:9,14	349:11,16,20,25
168:12,22 169:5	194:5,17 196:8	268:18,24 269:13	350:12,22 351:4,8
wasted 346:17	197:24,25 198:7	269:22 270:7,17	351:12,15,23,25
water 304:1	198:11,17,24	271:10,15 272:1	352:4,10,19,25
way 182:23 187:22	200:8,21,25 201:8	272:10,14 274:6	354:2 357:15
193:17 200:11,20	201:12,14 202:12	274:11 275:11,18	358:9,19 359:16
203:19 222:16	202:19 203:20	275:21 276:4,16	360:2,5,13,18,23
223:3,3 227:16	204:15 205:21	277:6,14,17	361:9,12,19,23
231:8,15 233:1	206:1,7 207:10	278:21 279:11,16	362:4,7,8,15,18,22
236:16 246:8,22	208:6 209:17	280:2,9,16,23	363:6,24 364:1,6
256:18 261:19	210:2,9 211:21	281:3,12,19 282:5	364:15,20 365:20
263:22 267:22	212:10,15 213:11	282:9 283:19	365:24,25 366:4
272:11 278:8,9	213:25 214:9	284:3,14,20,23	366:12,15 367:11
279:20 288:20	215:6,10 216:3,7	285:2,6,20 286:13	367:20,25
299:21 303:21	217:7,10,16 218:4	286:23 287:2,12	wednesday 238:7
312:5 317:17	218:8,23 219:15	287:20 288:1,6,17	weeds 276:22
329:14 335:23	220:19 221:14,16	288:23 289:6	week 255:8
350:14 353:12	221:21 223:5	300:10 301:4,10	weekend 212:1
361:8 364:1,2	224:7,14,22 225:2	301:15 302:6,8,11	250:22 336:16
367:23	225:5,13,19,22	302:17 303:12	364:16
we've 203:2 223:1	226:10,18 227:5	304:15,21,24	went 188:13 214:7
223:1 256:22	227:11 228:14	305:5,23 310:1,11	251:19 296:7
260:9 283:17	229:15 230:2	311:5,21,23 312:3	306:24 308:24
299:17 303:1	233:15,23 234:1,9	312:8 314:6,16,22	334:25 337:13
306:4 314:13	234:15,19,23,24	317:5,13 318:18	338:2 346:22
315:8 325:20	236:17 237:4,14	320:6 322:5,15,20	360:6
326:13,13 330:19	240:14,25 241:7	324:24 325:9,14	westmark 346:24
338:22 340:20	241:12,14 243:4	326:8,25 327:11	whale 258:3
345:6 359:9 361:5	243:11 244:12,20	327:20,22 328:3,8	whatnot 346:18
367:23	244:24 247:25	328:13,24 329:10	wheel 343:10
wedgworth	249:18 250:12,16	329:20,24 330:1,6	whirl 277:2
168:15 170:5,7	250:20 251:1,7,14	330:10,13,17	widely 318:6
175:17,17 176:16	252:4,22 254:5,15	331:4,11,16 332:8	wilkinson 168:3
177:13,20 178:9	254:20 255:17	332:15,22 333:2	176:4,4
178:25 179:12,21	256:1,12,21	333:13,19 334:4	willie 249:22
180:3,11,18 181:1	257:15 258:8,25	334:12,18 339:11	willing 197:17
181:7,20,25 182:4	259:9 260:20	340:2,11,17,24	367:3

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001351

HIGHLY CONFIDENTIAL

[win - zip]

Page 48

win 239:1 240:4	works 214:25	written 189:9	271:8 272:9
wind 290:1 329:22	278:8,9	245:13 361:25	284:20 321:5
windows 190:2	world 204:18	wrong 188:13	330:3,4 337:17
windshield 343:11	249:1 320:25	248:16 317:17	340:12 346:18
wise 228:25	350:15	319:10 339:6,7	years 180:4
withdraw 367:1	worried 321:9	360:17	181:21 187:11
withdrawn 251:9	worries 319:18	wrote 184:9 185:8	188:9 194:7 196:5
witness 167:13	worry 315:5	185:23 191:8	199:8,8,10,23
168:2 169:2 176:8	worrying 320:18	201:20 230:20,22	200:4,5 201:7
176:12 243:14	worse 280:22	235:6,7,16 245:5	214:6,6 222:16
300:23 316:21	worst 323:23	245:12 248:5	225:11 231:17
345:12 369:2	324:11 325:1	252:23 255:15	233:12,14 236:12
370:16,19	354:5	294:24 299:13,14	236:25 239:8
witnesses 364:4	worth 208:21,22	332:18 355:8	254:9 262:9
won 240:7 346:22	255:16 325:11	356:2 363:13,16	291:17 310:22,25
wonder 225:10	worthy 253:19	wyler 358:14,15	314:8,9 320:12
322:16	254:3	359:5	322:25 330:4
wood 254:13	write 185:6 202:4	x	337:12 339:15,16
word 267:24	219:1 230:10,13	x 370:22	345:21,23 346:7
306:16	230:14 235:2,8	xtime 268:16	347:10,16 353:4
words 248:14	241:21 242:20	269:7,8,21 270:6	yesterday 176:18
320:3	245:2,8,9,16	305:18,22 306:16	176:19 194:12
work 182:20 205:6	252:18 253:18	309:21 326:5,7,11	208:13 221:21
207:2 219:16	254:24 255:2	354:13,14,19	226:12 228:15,16
266:9 293:3	256:25 258:9	y	248:11 292:17
294:23 295:8,11	259:12 261:21	yeah 203:22	300:8
295:12,15,20	270:4,13 271:10	213:24 250:1,5,5	york 168:18,18
304:8 323:23	271:18 277:3,7,19	252:1 256:16	young 290:12
326:13 335:17	290:6,22 291:7	265:7,8 266:25	338:9
337:1 347:5	294:19 307:5	278:25 288:20	ytd 174:9 286:8
353:12	308:15 310:4	320:3 329:15	288:8
worked 203:25	326:11,18,24	342:8 354:22	z
315:1 347:2,3,3,7	327:3 354:24	363:16	zip 175:14
347:9,9,9,10 350:6	writes 186:19,20	year 179:1,8	
working 195:8	186:25 188:16	190:17 191:16	
347:8	189:4 190:15	192:9,13,16 196:4	
workman 171:17	239:1,7 241:25	211:6,17 212:22	
208:4 209:13,23	242:9 257:16	212:23 213:8	
212:14 213:17,19	279:17 298:15	224:23 225:7,23	
345:18	writing 218:20	238:3,5,23 270:20	
	261:15 297:2		

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

FTC-0001352

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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